of 1884, 5 of 1886, 4 of 1894). But the state Trade Marks Acts, with certain savings, cease to apply to trade marks (1905, s. 6).

The Commonwealth act contains certain novel provisions:—

1. As to a Commonwealth trade mark to be applied to all goods included in or specified by a resolution passed by both houses, that in their opinion the conditions as to the remuneration of labour in connexion with their manufacture are fair and reasonable (s. 78). The mark consists in a device or label bearing the words “ Australian Labour Conditions.”

2. As to workers’ trade marks intended to protect the products of any individual Australian worker or association of such workers other than primary products of agricultural or pastoral industries (s. 74). Sections 115, 116 of the act contain provisions for international and intercolonial arrangements as to protection of trade marks based on ss. 103, 104 of the act of 1883. By the Commerce Trade Descriptions Act, No. 16 of 1905, the import into and export from Australia of falsely marked goods is prohibited.

In *Canada* the law as to trade marks *(Reυ. Stats,* c. 63) and merchandise marks (c. 41 of 1888) has been regulated by Dominion acts, similar to English statute law. *New Zealand* has an act of 1889. The *Hong-Kong* ordinance, No. 18 of 1898, is a typical instance of an ordinance in a Crown colony [see also Ceylon, No. 9 of 1906, Jamaica (laws 17 of 1888 and 6 of 1889)]. In the *Bahamas* a trade marks law was passed on the 29th of May 1906, based on the imperial act of 1905. In the *Straits Settlements* there is no registration of trade marks, but the common law as to “ passing off ” is applied.

*United States,—*Provision for the registration of trade marks in the United States was first made by an act of Congress of 1870; but that enactment was subsequently declared invalid by the Supreme Court *(U.S, v. Steffens,* 1879, 100 U.S. 82), on the ground that the constitution of the United States did not authorize legislation by Congress on the subject of trade marks, except such as had been actually used in commerce with foreign nations or with the Indian tribes. Congress legislated again on the subject in 1881 (act of the 3rd of March 1881, Revised Stats. U.S. ss. 4937-4947). The act of 1881 was repealed by an act of the 20th of February 1905 (s. 592), which, as modified by an act of the 4th of May 1906, now regulates the subject. A trade mark may be registered by the owner if he is domiciled within the United States, including all territory under the juris- diction and control of the United States (s. 29), or resides or is located in any foreign country which by treaty, convention or law affords similar privileges to citizens of the United States (s. 1).

The right of persons domiciled in the United States was in 1906 extended to owners of trade marks who have a factory in the United States, so far as concerns the registration, &c., of trade marks used in the products of the factory (1906, s. 3). To obtain registration the owner of the mark (whether firm, corporation, association or natural person) must file in the patent office an application (*a*) specifying the name, domicile, location and citizenship of the applicant; (*b*) stating the class of merchandise and the particular description of goods in the class to which the mark is appropriated;@@1 (c) annexing a drawing of the trade mark and as many specimens as may be required by the commissioner of patents; (*d*) giving a description of the trade mark (only when needed to express colours not shown in the drawing); and (*e*) specifying the mode in which the mark is applied and affixed to goods; (*f*) stating the time during which the m rk has been used (1906, c. 2081, s. 1).

The application must be accompanied by a fee of $10, and be supported by a sworn declaration verifying the ownership and the drawing and description and stating that no one else has a right to use the mark, nor one so like it as might be calculated to deceive, and that the mark is in use in commerce among the several states or with foreign countries or with Indian tribes (1905 c. 592, s. 2).

Where the applicant resides or is located in a foreign country he must also show that the mark is registered in the foreign country, or that application has been made to register it there. Registration on behalf of foreign registrants is not made until foreign registration is proved nor unless application for United States registration is

made within four months of the application abroad (1905, *c.* 592, 55. 2, 4).

The United States policy is to require registration of all trade marks unless they (*a*) consist of or comprise scandalous or immoral matter; (*b*) consist of or comprise the flag or insignia of the United States, or of any state or municipality, or of any foreign nation ; (*c*) are identical with another known or registered trade mark owned and used by another and appropriated to merchandise of the same description, or so nearly resemble such other marks as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers; (*d*) consist merely in the name of an individual, firm, corporation or association, unless it is written, printed, impressed or woven in a particular or distinctive manner, or is associated with a portrait of the individual ; *(e)* consist merely in words or devices descriptive of the goods with which they are used, or of the character or quality of such goods, or merely of a geographical name or term ; (*f*) contain the portrait of a living individual unless his consent is evidenced by an instrument in writing.

Old marks may be registered irrespective of the above rules, no proof that they have been actually and exclusively used as a trade mark of the applicant or his predecessors from whom he derived title in such commerce as aforesaid for ten years before the 2oth of April 1905. Applications made in proper form with the prescribed fee are at once examined in the patent office and if in order are gazetted to give opportunity for “ interference.”

Decisions of the examiners on applications or oppositions are subject to appeal to the commissioner of patents, and from him to the court of appeals for the District of Columbia (ss. 8, 9). The general jurisdiction in trade mark cases is given to the Federal courts below the Supreme Court, which has power by certiorari to review the decisions of circuit courts of appeal upon such cases (ss. 17, 18). The maximum protection given by registration is twenty years. The protection given to marks already registered in a foreign country lapses when the mark ceases to be protected in the foreign country (s. 12). Certificates of registration are issued under the seal of the patent office.

Provision is made to prevent importation of merchandise which copies or simulates the name of any domestic manufacture, manu­facturer or trader, or of a manufacturer or trader located in a country affording like privileges to the United States, or which copies or simulates the trade mark registered in the United States, or which bears names or marks calculated to create the belief that it is made in the United States, or in any country other than the true country of origin. United States traders who seek protection can have their names and marks recorded and communicated to the customs department (s. 27). At any time during the six months prior to the expiry of the term of twenty years the registration may be renewed on the same terms and for a like period. The right to the use of any registered trade mark is assignable (with the goodwill of the business in which it is used) by an instrument in writing; and provision is made for recording such instruments in the patent office (s. 10).

*France.—*In France (laws of the 23rd of June 1857, and the 3rd of March 1890) trade marks are optional, but may be declared compulsory for certain specified articles by decrees in the form of administrative orders. The decrees regulating registration are of the 27th of February 1891 and the 17th of December 1892. The following are considered trade marks: names of a distinctive character, appellations, emblems, imprints, stamps, seals, vignettes, reliefs, letters, numbers, wrappers and every other sign serving to distinguish the products of a manufacture or the articles of a trade. A fixed fee of one franc is charged for entering the minute by registration (dépôt) of each mark, and making a copy thereof, exclusive of stamp and registration fees. By legislation of the 1st of August 1905 and the 11th of July 1906 provision is made for marking certain classes of commodities, mainly food products, to prevent falsification and the sale of foreign products as French.

*Germany.—*Under the German trade mark law of the 12th of May 1894 any person whatsoever can acquire protection for a trade mark, and all foreigners in Germany are placed on an exactly equal footing with Germans in the eyes of the law, so long as they have a domicile *(Niederlassung)* within the empire, *i.e.* a place of business or a resi- dence which involves the payment of German taxes. The registration of a trade mark expires *ipso facto* after ten years from its date, but may be renewed for a similar period. Germany acceded to the international convention on the 1st of May 1903.

In the *Netherlands* (law of the 3oth of September 1893) two distinct forms of registration are in force: *(a)* registration merely for the Netherlands; *(b)* international registration, available for the states of the international union.

The following other foreign trade mark Jaws may also be noted: *Austria-Hungary,* law of 1890 (published in Vienna on the 6th of January and in Budapest on the 6th of April 1890), and amending law of the 3oth of July 1895, which enactment protects additions to trade marks. *Denmark* (law of the nth of April 1890, and an amending law of the 19th of December 1898, which enables traders to register words or figures, provided that these arc not indicative of the origin, kind, use, quality or price of the goods). *Japan* (law of the 1st of July, and regulations of the 2oth of July 1899). *Russia* (law

@@@1 By the law of 1906 (s. 21) the commissioner of patents is directed to establish classes of merchandise.