



# The Royal Gazette.

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*Official Notifications appearing in this Paper, duly authenticated, are to be received as such by the persons whom they may concern.*



BY AUTHORITY.

## NOTICE.

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*Secretary's Office, 14th April, 1868.*

His Excellency the Lieutenant Governor directs that the following Despatches, relative to the Act relating to "Trade Marks," and its not being sanctioned by Her Majesty, be published in the Royal Gazette for general information.

J. A. BECKWITH.

*Government House,  
Fredericton, N. B. 11th April, 1868.*

SIR,—I am directed by His Excellency the Lieutenant Governor to transmit to you, for the information of the Government, copies of a Correspondence between His Grace the Secretary of State for the Colonies and His Excellency the Governor General, by which it will be seen that His Grace the Secretary of State for the Colonies, does not think it desirable to advise Her Majesty to sanction the Act relating to "Trade Marks," passed by the Legislature of this Province in June 1867, and that the said Act of "Trade Marks," and the regulation of the Registration of Designs, will form the subject of future Legislation in the Parliament of the Dominion.

I have the honor to be, Sir, your obedient servant,

F. L. HOLYOAKE, *Capt.*

*Private Secretary.*

P. S.—It will be necessary to publish in the Royal Gazette, that the Act relating to "Trade Marks," passed by the Legislature in June 1867, will not be sanctioned.

(By Order.) F. L. HOLYOAKE, *Capt.*

*Private Secretary.*

The Hon. Provincial Secretary, Fredericton, N. B.

The Duke of Buckingham to Lord Monck.

CANADA.—No. 13.

*Downing Street, 8th January, 1868.*

MY LORD,—With reference to an Act passed by the Legislature of New Brunswick, intituled "No. 31, An Act relating to Trade Marks," I have the honor to inform you that I referred that Act to the Board of Trade, and I now transmit to you a copy of their Report thereon.

Since the passing of the British North America Act, 1867, it seems doubtful whether the subject of Trade Marks is not among those which are to be dealt with by the Parliament of Canada, and I shall therefore for the present abstain from offering Her Majesty any advice upon this Act of the New Brunswick Legislature.

It appears to me very desirable, that a Bill having for its object the protection of Trade Marks in the Dominion of

Canada, should be introduced before Parliament, and should your Ministers concur in this view, and introduce such a Bill, those comments of the Board of Trade which apply to the substance and principle of such a Bill, appear to me well deserving of consideration.

I have, &c.

(Signed) BUCKINGHAM & CHANDOS.

Governor the Right Hon. Viscount Monck.

Mr. Mallet to the Under Secretary of State, Colonial Office.

*Office of Committee of Privy  
Council for Trade, 31st December, 1867.*

SIR,—I am directed by the Lords of the Committee of Privy Council for Trade, to acknowledge the receipt of your letter of the 3rd instant, transmitting for their consideration, by direction of the Duke of Buckingham & Chandos, a transcript of an Act passed by the Legislature of New Brunswick on the 17th June last, entitled "An Act relating to Trade Marks," and requesting that His Grace may be informed whether in my Lords' opinion Her Majesty may be properly advised to allow it.

In reply, I am to request that you will inform the Secretary of State that there are several provisions in this Act which appear to my Lords open to objection, on the ground either of obscurity or inexpediency.

Section 6 entrusts to the Provincial Secretary or his Assistant, the difficult and responsible duty of determining the ownership of "Trade Marks" in cases of dispute, and of conferring the rights which are to be obtained by registration, and no provision appears to be made for a case of disputed right in a Mark in which none of the parties interested, appear either to defend such right in a Mark already registered, or to support an application for a new registration.

This Section, therefore, seems to require revision.

Section 7 is obscure in its wording, the words "the same," in the second line, would appear to apply to the goods, which cannot be the intention.

Section 8 appears to enable a British subject, though not registered, to proceed against a pirate of his Mark, but the wording requires amendment to make the meaning clear.

Section 9 seems to be in direct opposition to the last three lines of Section 7, and the penalties referred to are not imposed by the preceding Sections.

This clause also refers to clauses for the registration of Designs, which are not contained in the Act, and no form of procedure is therefore provided.

Section 12 would appear to safe-guard any right in a Trade Mark either at law or in equity, independently of registration, but as this is an important provision, my Lords are of opinion that the Act should be made quite clear upon this point.

As the Act appears to have been modified in Committee, it is probable that the defects to which I have called attention have arisen from this cause, but my Lords would suggest that before it is submitted for Her Majesty's approval, it should be referred back to the Governor for reconsideration.

I have, &c.

(Signed)

LOUIS MALLET.

The Under Secretary of State, Colonial Office.