

or persons, or body corporate or politic, have in his, her or their possession any die or dies, plate or plates, brand or brands, engraving or engravings, printed labels, stamps, imprints, moulds, wrappers or trade marks, or any representation, likeness, similitude, copy or imitation of the private label, brand, stamp or wrapper, engraving, mould or trade mark usually affixed by any manufacturer, mechanic, merchant, tradesman, druggist, association or union of workingmen, person or body corporate or politic, to, upon or used in connection with articles made, manufactured, prepared or compounded by him, her or them, for the purpose of making impressions, or selling the same when made, or using the same upon or in connection with any other article made, manufactured, prepared or compounded, and passing the same off upon the community as the original goods, wares, implements, merchandise, compound or preparation of any other person or persons, association or union of workingmen, or body corporate or politic, or who shall in fact sell or use the same, or for the purpose of secreting the same from the rightful owner or owners, or who shall wrongfully or fraudulently use the genuine label, brand, stamp, wrapper, imprint, engraving, mould or trade mark, with intent to pass off any goods, wares, implements, merchandise, compound or preparation, or other article not the manufacture of the person, persons, association or union of workingmen, or body corporate or politic, to whom such label, brand, stamp, wrapper, engraving, imprint, mould or trade mark properly belongs, as genuine and original, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than three months nor more than twelve months, or fined not less than one hundred dollars nor more than five thousand dollars, or both such fine and imprisonment.

Sec. 10363. Any person, persons, association or union of

workingmen, or body corporate or politic, who shall vend or keep for sale any goods, wares, merchandise, compounds, or preparations upon which or in connection with which any forged, imitation or counterfeit label, brand, stamp, wrapper, imprint, engraving, bottle or trade mark shall be placed, affixed or used, and intended to represent the said goods, wares, implements, merchandise, compounds or preparations as the genuine goods, wares, implements, merchandise, compound or preparation of any other person or persons, association or union of workingmen, or body corporate or politic, knowing the same to be imitation or counterfeit, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail not less than one month nor more than twelve months, or both, and shall also be liable in a civil action to the person or persons, association or union of workingmen, or body corporate or politic, whose goods, wares, implements, merchandise, compounds or preparations is imitated or counterfeited, or whose label, stamp, wrapper, engraving, imprint, bottle, or trade mark is imitated, forged or counterfeited, placed, affixed or used, for all damages such person or persons, association or union of workingmen, or body corporate or politic, may or shall sustain, both by virtue of the loss of profits and the damage done to the reputation of the said genuine article, goods, wares, implements, merchandise, compound or preparation, by reason of any of the acts in any section of this chapter mentioned, and may be restrained or enjoined by any court of competent jurisdiction from doing or performing any of the acts herein mentioned.

Sec. 10369. Any person or persons who shall, with intent to defraud any person or persons, association or union of workingmen, or body corporate or politic, knowingly affix or cause to be affixed to or upon any case, box, web, package or

bottle containing any goods, wares, merchandise, compound or preparation, any label, brand, stamp, wrapper, engraving, imprint or mark which shall designate such goods, wares, merchandise, compound or preparation, either wholly or in part by a word or words, or by general design, which shall be wholly or in part the same to the eye, or in sound to the ear, as the word or words or the general design used by any person or persons, association or union of workingmen, or body corporate or politic, for designing any goods, wares, merchandise, compound or preparation, manufactured or prepared by or for some other person or persons, association or union of workingmen, or body corporate or politic, or who shall knowingly sell or expose or offer for sale any such case, box, web, package or bottle, with any such label, brand, stamp, wrapper, engraving, imprint, or mark affixed to or upon it, shall, provided such person or persons affixing or causing to be affixed any such label, brand, stamp, wrapper, engraving, imprint or mark, or so selling or offering for sale any such case, box, web, package or bottle, shall not have been the first to employ or use such word or words or general design to designate, wholly or in part, any goods, wares, merchandise, compound or preparation, and upon conviction thereof be deemed guilty of a misdemeanor, and shall be liable to the party aggrieved in the penal sum of five hundred dollars, and for a further sum equal to the amount which the aggrieved party might have received for the same amount of genuine goods, wares, merchandise, compounds or preparations, and shall be guilty of a misdemeanor, and on conviction may be punished by imprisonment in the county jail for a period of not less than one month nor more than twelve months, or fined not less than one hundred dollars nor more than five thousand dollars, or both such fine and imprisonment.

Sec. 10370. All courts of this state having jurisdiction of criminal cases shall have jurisdiction of proceeding [s] for

violation of this chapter. All suits brought under this chapter shall be brought by the person or persons injured or defrauded by such parties; and if brought by any association or union of workingmen, the suit may be brought in the name of the president and secretary, to the use and benefit of such association or corporation, and may thus sue and be sued.

Sec. 10371. It shall be the duty of any officer within the jurisdiction of the court having authority, to whom there shall be delivered any warrant for the arrest of any person alleged to have committed any offense created by this chapter to seize any and all goods, wares, merchandise, compounds, preparations, labels, brands, implements, stamps, wrappers, imprints, engravings, plates, bottles, dies or moulds, mentioned or referred to in the complaint, or affidavit or information, upon which said warrant issued, and upon final conviction of the offender, the court shall direct such of same as may be counterfeit to be destroyed, and they shall be so destroyed accordingly: provided, however, that if said property consists of wares and merchandise, which, in the judgment of the court, are independent of any trade mark, of genuine and intrinsic value, and capable of being applied to a useful and beneficial purpose, then and in such case all counterfeit words, marks, wrappers, labels, emblems, stamps, brands, bottles, imprints and signs used in connection therewith shall be first erased, obliterated and destroyed, and said property shall be sold within ten days next succeeding the decision of the court thereon, in such manner as the court shall direct, and the proceeds of said sale, less the expense thereof, be applied to the benefit of the school fund of the county in which said seizure was effected.

Sec. 10372. No testimony or evidence given by any person in any civil action to which said person may be a party, or by any other witness in such action, or in any reference or proceeding which may be had in such action, nor any tes-

timony or evidence derived from the books or papers of such party or witness, or otherwise, in such action, or in any reference or other proceeding which may be had therein, can or shall be asked in any criminal prosecution against such party or witness, under any of the provisions of this chapter, nor shall any party or witness refuse to testify or furnish evidence in any civil action by reason of any of the provisions of this chapter.

Sections 2270-2275, Rev. St. 1899, protect manufacturers of glass bottles, and persons who manufacture, bottle, or sell mineral waters and other beverages, against the unauthorized use of or injury to, or defacement of the names or marks upon, their bottles, siphons, jugs, etc., by other persons.

MONTANA.

CODES AND STATUTES OF 1895—POLITICAL CODE.

Section 3160. The phrase "trade mark," as used in this chapter, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description, or the designation or name for any mill, hotel, factory or other business.

Sec. 3161. Any person may record any trade mark or name, by filing with the secretary of state his claim to the same, and a copy or description of such trade mark or name, with his affidavit attached thereto, certified to by any officer authorized to take acknowledgments of conveyances, setting forth that he or the firm or corporation of which he is a member, is the exclusive owner, or agent of the owner, of such trade mark or name. [As amended February 25, 1899.]

Sec. 3162. The secretary of state must keep for public ex-

amination a record of all trade marks or names filed in his office, with the date when filed and the name of the claimant, and must not record any two like trade marks or names. He must at the time of filing and recording a trade mark or name, collect from the claimant a fee of three dollars. [As amended February 25, 1899.]

Sec. 3163. Any person who has first adopted and used a trade mark or name, whether within or beyond the limits of this state, is its original owner. Such ownership may be transferred in the same manner as personal property, and is entitled to the same protection by suits at law; and any court of competent jurisdiction may restrain by injunction any use of trade marks or names in violation of this chapter.

Sec. 3164. The penalty for forging, counterfeiting or unlawfully using trade marks is provided in section 636 of the Penal Code.

CIVIL CODE.

Section 1071. There may be ownership of all inanimate things which are capable of appropriation or of manual delivery, of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author; the good will of a business; trade marks and signs, and of rights created or granted by statute.

Section 1370. One who produces or deals in a particular thing, or conducts a particular business, may appropriate to his exclusive use, as a trade mark, any form, symbol or name, which has not been so appropriated by another, to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation or part of a designation, which relates only to the name, quality, or the description of the thing or business, or the place where the thing is produced, or the business is carried on.

Section 1371. The good will of a business is the expectation

of continued public patronage, but it does not include the right to use the name of any person from whom it was acquired.

Section 1372. The good will of a business is property, transferable like any other.

Sec. 2379. One who sells or agrees to sell any article to which there is affixed or attached a trade mark, thereby warrants that trade mark to be genuine and lawfully used.

Section 2380. One who sells or agrees to sell any article to which there is affixed or attached a statement or mark to express the quantity or quality thereof, or the place where it was, in whole or in part produced, manufactured or prepared, thereby warrants the truth thereof.

Section 2383. One who sells the good will of a business, thereby warrants that he will not endeavor to draw off any of the customers.

PENAL CODE.

Section 636. Every person who willfully forges or counterfeits, or procures to be forged or counterfeited, any trade mark usually affixed by any person to his goods, which has been recorded in the office of the secretary of state, with intent to pass off any goods to which such forged or counterfeited trade mark is affixed or intended to be affixed, as the goods of such person, is guilty of a misdemeanor.

Sec. 637. Every person who sells or keeps for sale, any goods upon or to which any counterfeited trade mark has been affixed, after such trade mark has been recorded in the office of the secretary of state, intending to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor.

Sec. 638. The phrases "forged trade mark" and "counterfeited trade mark" or their equivalents, as used in this chap-

ter, include every alteration or imitation of any trade mark so resembling the original as to be likely to deceive.

Sec. 639. The phrase "trade mark," as used in the three preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, wrapper, usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description.

Sec. 640. Every person who has or uses any cask, bottle, siphon, vessel, case, box, cover, label, or other thing bearing or having in any way connected with it the duly filed trade mark or name of another, for the purpose of disposing, with intent to deceive or defraud, of any article other than that which such cask, vessel, bottle, case, cover, label, or other thing originally contained, or was connected with, by the owner of such trade mark or name, is guilty of a misdemeanor.

Sec. 641. Whenever any person, association or union of workmen have adopted, or hereafter shall adopt for their protection, any label, trade mark or form of advertisement announcing the goods to which such label, trade mark or form of advertisement shall be attached were manufactured by such person, or by a member or members of such association or union, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trade mark or form of advertisement. Every person violating this section shall, upon conviction, be guilty of a misdemeanor.

Sec. 642. Every person who shall use any counterfeit or imitate any label, trade mark or form of advertisement of any such person, union or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor.

Sec. 643. Every such person, association or union that heretofore adopted, or shall hereafter adopt, a label, trade mark or form of advertisement as aforesaid, may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or *fac similes* thereof, with the secretary of state; said secretary shall deliver to such person, association or union filing the same a duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade mark or form of advertisement, and of the right of said person, association or union to adopt the same. No label shall be recorded that, probably, would be mistaken for a label already of record.

Sec. 644. Every such person, association or union adopting a label, trade mark or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeit or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such suit such damages, resulting from such wrongful manufacture, use, display or sale, as may by said court be deemed just and reasonable, and shall require the defendants to pay such person, association or union the profits derived from such wrongful manufacture, use, display, or sale; and said court shall also order that all such counterfeits and imitations in the possession, or under the control, of any defendant in such case be delivered to any officer of the court, or to complainant, to be destroyed.

Sec. 645. Every person who shall use or display the genuine label, trade mark or form of advertisement of any such person, association or union in any manner not authorized by such person, union or association, shall be deemed guilty of a misdemeanor. In all cases where such association or

union is not incorporated, suits under this act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union.

Sec. 646. Any person or persons who shall in any way use the name or seal of any person, association or union, or officer thereof, in and about the name of goods, or otherwise, not being authorized to use the same, shall be guilty of a misdemeanor.

NEBRASKA.

COMPILED STATUTES 1901.

Section 6810. If any person shall falsely make, alter, forge, counterfeit, print, or photograph * * * any private stamp, brand, wrapper, label, or trade mark, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to or upon the goods, wares, merchandise, preparation or mixture of such mechanic, manufacturer, druggist, merchant, or tradesman; * * * with intent to damage or defraud any person or persons, body politic or corporate, or any military body organized under the laws of this state; or shall utter or publish as true and genuine, or cause to be uttered and published as genuine and true, or shall have in his possession with intent to utter and publish as true and genuine, any of the above named false, altered, forged, counterfeited, falsely printed, or photographed matter above specified and described, knowing the same to be false, altered, forged, counterfeited, falsely printed, or photographed, with intent to prejudice, damage, or defraud any person or persons, body politic or corporate. Every person so offending shall be imprisoned in the penitentiary for any space of time not exceeding twenty years nor less than one year, and pay fine not exceeding five hundred dollars.

Section 6811. If any person shall have in his possession

any die, or dies, plate or plates, brand or brands, engraving, imprint, printed labels, wrappers, or any other instrument, thing or means whatever with intent therewith or thereby to falsely make, forge, or counterfeit any matter specified in the last preceding section, or to cause or enable the same to be done; or shall have in his possession any such falsely made, forged, or counterfeited matter whether the same be completed or only partly executed, for the purpose of bartering, selling, or disposing thereof, knowing the same to be falsely made, forged or counterfeited, with intent thereby to prejudice, damage, or defraud any person or persons, body politic or corporate, every person so offending shall be imprisoned in the penitentiary not less than six months nor more than ten years, and pay a fine not exceeding one thousand dollars.

Section 6814. Any person who shall vend or keep for sale any goods, merchandise, mixture, or preparation, upon which any forged or counterfeit stamps, brands, imprints, wrappers, labels, or trade marks be placed or affixed, and intended to represent the said goods, merchandise, mixture or preparation, as the true and genuine goods, merchandise, mixture or preparation of any person or persons, knowing the same to be counterfeit, shall be punished by a fine not exceeding one hundred dollars.

Sections 6922-6926, Comp. St. 1901, are designed to protect manufacturers, bottlers, and vendors of soda water, mineral water, and other beverages in the use of their casks, barrels, kegs, bottles, and boxes, and provide penalties for the unauthorized use of or injury to such casks, barrels, kegs, bottles, and boxes by other parties.

Sections 3549-3553 protect associations and unions of workingmen in their labels, trade marks, and forms of advertisement, and authorize such associations or unions to file the same with the secretary of state.

NEVADA.

COMPILED LAWS, ANN., 1861-1900.

An act concerning trade marks and names (approved March 8, 1865, 268).

5040. Section 1. When a person who has complied with the provisions of section two of this act uses any peculiar name, letters, marks, device, figures, or other trade mark or name, cut, stamped, cast, or engraved upon, or in any manner attached to or connected with, any article, or with the covering or wrapping thereof, manufactured or sold by him, to designate it as an article of a peculiar kind, character, or quality, or as an article manufactured or sold by him, or if such trade mark or name be so connected with any bottle, box, cask, or other thing used for holding such article, it shall be unlawful for any other person, without his consent, to use said trade mark or name, or any similar trade mark or name, for the purpose of representing any article to have been manufactured or sold by the person rightfully using such trade mark or name, or to be the same kind, character, or quality as that manufactured or sold by the person rightfully using such trade mark or name.

5041. Sec. 2. Any person wishing to secure the exclusive use of any such trade mark or name, under the provisions of this act, shall file his claim to the same, and a copy or description of such trade mark or name, with the secretary of state.

5042. Sec. 3. The secretary of state shall keep a record of all trade marks or names filed in his office, with the date when filed, and name of claimant, for public examination. A fee of twenty dollars shall be paid to the secretary of state at the time of filing each copy and description of any trade mark or name, by the party claiming the use and benefit of the same. It is hereby made the duty of the secretary of

state to pay all fees accruing under this section into the state library fund.

5043. Sec. 4. Any person violating the provisions of the first section of this act shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not less than five days, nor more than thirty days, or by both such fine and imprisonment; and he shall be further liable to any party aggrieved by such violation for all damages actually incurred, to be recovered as a debt in any court of competent jurisdiction.

5044. Sec. 5. It shall be unlawful for any person to counterfeit any trade mark or name, or to have or use a counterfeit trade mark or name, or sell any article bearing or having in any way connected with it a counterfeit trade mark or name, which has been filed according to section two of this act, knowing it to be such, or having good and sufficient reason to know it to be such. Every alteration or imitation of any trade mark or name which has been filed according to section two of this act which shall be made, applied, or used, or which shall cause any trade mark or name, with such alterations or imitation, to resemble any genuine trade mark or name, so as to be calculated or likely to deceive, shall be deemed to be a counterfeit trade mark or name, within the meaning of this act and every act of making, applying, or otherwise using any such alteration or imitation, as aforesaid, done by any person, such person shall be deemed to be guilty of counterfeiting a trade mark or name, or knowingly using a counterfeit trade mark or name, within the meaning of this act. Every person violating the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof shall be punished as provided in section four of this act.

5045. Sec. 6. Every person who shall have or use any cask, bottle, vessel, case, cover, label, or other thing, bearing or having in any way connected with it the trade mark or name of another, which has been filed according to section two of this act, for the purpose of disposing of any article with intent to deceive or defraud, other than that which said cask, bottle, vessel, case, cover, label, or other thing originally contained, or was connected with by the owner of said trade mark or name, shall be guilty of a misdemeanor, and on conviction thereof shall be punished as provided in section four of this act.

5046. Sec. 7. Every person who shall knowingly aid, or abet, or counsel in, or procure the commission of any offense which is by this act made a misdemeanor, shall be deemed and held to be guilty of a misdemeanor, and shall be subject to the penalties provided in section four of this act.

5047. Sec. 8. This act shall not be so construed as to permit any person to file, without authority from the owner, any trade mark or name owned, or previously used by another person, nor in any way to interfere with, hinder, prevent, or restrain the importation or sale, by any person, of genuine articles of merchandise having, or belonging thereto, genuine trade marks or names manufactured or sold in other states or countries.

5048. Sec. 9. Any person who has first adopted and used a trade mark or name, whether within or beyond the limits of this state, shall be considered its original owner, and the ownership may be transferred in the same manner as personal property, and shall be entitled to the same protection by suits at law as other personal property.

5049. Sec. 10. Every person filing with the secretary of state, as provided in section two of this act, his claim to any trade mark or name, shall have attached to the copy and description thereof his affidavit, duly certified to by any offi-

cer authorized by the laws of this state to take acknowledgments of conveyances, setting forth that he (or the firm or corporation of which he is a member) is the exclusive owner or agent of the accompanying trade mark or name.

5050. Sec. 11. Any court of competent jurisdiction may restrain, by injunction, any use of trade marks or names in violation of any section of this act.

5051. Sec. 12. No person otherwise competent as a witness, shall be disqualified or excused from testifying as a witness, either before a grand jury or a petit jury, or otherwise, concerning any offense mentioned in this act, on the ground that his testimony may criminate himself, but such testimony shall be reduced to writing, and no indictment or prosecution shall afterward be brought against him for said offenses, concerning which he has testified as a witness.

5052. Sec. 13. Any witness called to give testimony on behalf of the state, before any grand jury, or before any court of justice, shall be required to give such testimony, which shall be reduced to writing, and such witness shall not be liable to suffer any punishment or forfeiture for any offense against the provisions of this act, so disclosed.

Section 1938, Compiled Laws, Nevada, 1861 to 1900, reduces the fee for recording trade marks and names to five dollars.

NEW HAMPSHIRE.

PUBLIC STATUTES AND SESSION LAWS 1901, PAGE 407 (LAWS 1895, CH. 42).

Protection of workingmen's trade marks, etc., and of rights in literary, dramatic and musical compositions and in works of art.

Section 1. Whenever any person, association or union of workingmen have adopted, or shall hereafter adopt, for their protection, any label, trade mark, or form of advertisement announcing that goods to which such label, trade mark, or

form of advertisement shall be attached were manufactured by such person, or by a member or members of such association or union, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trade mark or form of advertisement. And whenever any person, firm, association or corporation is the owner of any literary, dramatic or musical composition and the rights of the author pertaining thereto, and such composition has not been copyrighted, printed or published, or of any map, charter, engraving, cut, print, photograph or negative thereof, statue, statuary, model or design which has not been copyrighted or offered for sale, it shall be unlawful for any other person, firm, association or corporation to publish, produce, print or sell, or offer to sell the same without first obtaining the consent of the owner thereof.

Sec. 2. Every person who shall use any counterfeit or imitation of any label, trade mark, or form of advertisement of any such person, union or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor, and shall be punished as provided in section 7 of this act.

Sec. 3. Every such person, association or union that has heretofore adopted, or shall hereafter adopt, a label, trade mark, or form of advertisement, as aforesaid, may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or *fac similes* thereof with the secretary of state; and the secretary shall deliver to such person, association or union so filing the same a duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate of record shall, in all suits and prosecutions under this act, be *prima facie* proof of the adoption of such label, trade mark, or form of advertisement, and of the right of said person, association or union to adopt the same. No label shall be recorded that probably would be mistaken for a label already of record.

Sec. 4. Every such person, association or union adopting a label, trade mark, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display, or sale of any such counterfeits or imitations and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display, or sale, and such person, association or union shall be entitled to such damages resulting from such wrongful manufacture, use, display, or sale, as may be deemed just and reasonable and the supreme court shall also order that all counterfeits or imitations in the possession or under the control of the defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed.

Sec. 5. Every person who shall use or display the genuine label, trade mark, or form of advertisement of any such person, association, or union in any manner not authorized by such person, association, or union, shall be deemed guilty of a misdemeanor, and shall be punished as provided in section 7 of this act. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by any officer or member of such association or union in behalf of and for the use of such association or union.

Sec. 6. Any person or persons who shall in any way use the name or seal of any such person, association, or union, or officer thereof, in and about the sale of goods, or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, punishable as provided in the succeeding section.

Sec. 7. Any violations of any of the provisions of this act shall be punished by imprisonment in the county jail for a term of not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than two hundred dollars, or both.

NEW JERSEY.

LAWS 1898, CH. 50.

An act to provide for the registration of labels, trade marks, terms and designs, and protect and secure the rights, property and interests therein of the persons, associations, organizations and corporations adopting and filing the same.

1. It shall be lawful for any person, association, organization or corporation to adopt for their protection and file for registry, or cause to be filed for registry, as herein provided, any label, trade mark, term or design that has been used or is intended to be used for the purpose of designating, making known or distinguishing any goods, wares, merchandise or products of labor that have been or may be wholly or partly made, manufactured, produced, prepared, packed or put on sale by any person, association, organization or corporation, or to or upon which any work or labor has been applied or expended by any person or by any member or members of any association, organization or corporation that has adopted and filed for registry, or that may adopt and file for registry, any such label, trade mark, term or design as aforesaid, or announcing or indicating that the same have been made in whole or in part by any such person, association, organization or corporation or by any member or members thereof.

2. Whenever any person, association, organization or corporation shall adopt and file for registry, or cause to be adopted and filed for registry, any label, trade mark, term or design pursuant to the provisions of this act, the property, privileges, rights, remedies and interests in and to any such label, trade mark, term or design, and in and to the use of the same, provided or given by this act to, or otherwise conferred upon or enjoyed by, the person, association, organization or corporation filing the same, or causing the same to

be filed, for registry, shall be fully and completely secured, preserved and protected as the property of those entitled to the same, before any such label, trade mark, term or design has been actually applied to any goods, wares, merchandise or product of labor and put upon the market for sale or otherwise, and before any use or appropriation of any such label, trade mark, term or design has been made in connection with any such goods, wares, merchandise or product of labor, as well as after the same has been used or applied to designate, make known or distinguish any such goods, wares, merchandise or product of labor and they have been put upon the market.

3. Any person, association, organization or corporation that has heretofore adopted and used, or shall hereafter adopt and use, any label, trade mark, term or design as herein provided, may file the same for registry in the office of the secretary of state by leaving two copies, *fac similes* or counterparts thereof, with the said secretary, and filing therewith a statement in the form of an affidavit, subscribed and sworn to by any such person, or by any officer, agent or attorney of any such association, organization or corporation, specifying the person, association, organization or corporation by whom, or on whose behalf, any such label, trade mark, term or design is filed, and the class or character of goods, wares, merchandise or product of labor to which the same has been, or is intended to be, appropriated or applied, and that the person, association, organization or corporation so filing the same, or on whose behalf the same is so filed, has the right to the use of the said label, trade mark, term or design, and that no other person, firm, association, organization or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, without the permission or authority of the person, association, organization or corporation filing the

same, or causing the same to be filed, and that the copies, *fac similes* or counterparts filed therewith are true and correct copies, *fac similes* or counterparts of the genuine label, trade mark, term or design of the person, association, organization or corporation. filing the same or causing the same to be filed; and there shall be paid for such filing and registry a fee of one dollar to the secretary of state for the use of the state.

4. The secretary of state, upon the filing of any such label, trade mark, term, or design, that is not in conflict with the next section hereof, shall register the same, and shall deliver to the person, association, organization or corporation filing the same, or causing the same to be filed, as many certified copies thereof, with his certificate of such registry, as any such person, association, organization or corporation may request, and for every such copy and certificate there shall be paid to the secretary of state, for the use of the state, a fee of one dollar; and any such certified copy and certificate shall be admissible in evidence and competent and sufficient proof of the adoption, filing and registry of any such label, trade mark, term or design by any such person, association, organization or corporation, in any action or judicial proceeding in any of the courts of this state, and of due compliance with the provisions of this act; provided, however, that such certificate shall not be assignable or transferable by the person, association, organization or corporation to whom the same is issued by the secretary of state.

5. It shall not be lawful for the secretary of state to register, or permit to be registered, for any person, association, organization or corporation any label, trade mark, term or design that is in the identical form of any other label, trade mark, term or design theretofore filed by or on behalf of any other person, association, organization or corporation, or that bears any such near resemblance thereto as may be

calculated to deceive, or that would be liable to be mistaken therefor; and any person, association, organization or corporation who shall file or procure the filing and registry of any label, trade mark, term or design in the office of the secretary of state, under the provisions of this act, by making any false or fraudulent representations or declarations, with fraudulent intent, shall be liable to pay any damages sustained in consequence of any such registry, to be recovered by or on behalf of the party injured thereby in any court of law of this state having jurisdiction in civil causes.

6. Whenever any person, association, organization or corporation has heretofore adopted and filed for record or registry, or shall hereafter adopt and file for registry, any label, trade mark, term or design, or cause the same to be done, as herein provided, and the same shall have been registered pursuant to this act, it shall be unlawful, and a violation of this act, for any other person, association, organization or corporation to manufacture, use, sell, offer for sale, or in any way utter or circulate, any counterfeit or imitation of any such label, trade mark, term or design; or have in possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or product of labor to which or on which any counterfeit or imitation of any such label, trade mark, term or design is attached, affixed, printed, painted, stamped, impressed or displayed; or to sell or dispose of, or offer to sell or dispose of, or have in possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, impressed or displayed.

7. Whenever any person, association, organization or corporation has heretofore adopted and filed for record or registry, or shall hereafter adopt and file for registry, any

label, trade mark, term or design as herein provided, it shall be unlawful; and a violation of this act, for any other person or persons, association, organization or corporation, to make any use, sale, offer for sale or display of the genuine label, trade mark, term or design of any such person, association, organization or corporation, filing the same; or to have any such genuine label, trade mark, term or design in possession with intent that the same shall be used, sold, offered for sale or displayed, or that the same shall be applied, attached or displayed in any manner whatever to or on any goods, wares or merchandise; or to sell, offer to sell, or dispose of, or have in possession with intent that the same shall be sold or disposed of, any goods, wares or merchandise in any box, case, can or package to or on which any such genuine label, trade mark, term or design of any such person, association, organization or corporation is attached, affixed or displayed; or to make any use whatever of any such genuine label, trade mark, term or design, without first obtaining, in every such case, the license, consent or authority of the person, association, organization or corporation adopting, filing and registering the same, or causing the same to be adopted, filed and registered; and any such license, consent or authority may be revoked and terminated at any time upon notice, and thereafter any use thereof shall be a violation of this act, and subject those violating the same to all the liabilities and penalties herein provided against any violation thereof.

8. It shall be lawful for any person, association, organization or corporation that has adopted and filed, or caused to be filed and recorded or registered in the office of the secretary of state, at any time before the passage of this act, any label, trade mark, term or design, to refile the same for registration by the secretary of state pursuant to the provisions of this act, upon payment of the fees herein pre-

vided for filing and registering any label, trade mark, term or design, and for copies and certificates thereof, and any person, association, organization or corporation so refiling any such label, trade mark, term or design shall have and be entitled to all the rights, remedies, privileges and protection given by this act to any person, association, organization or corporation originally filing any label, trade mark, term or design under the provisions of this act and subject to the same liabilities.

9. The court of chancery shall have jurisdiction in all cases arising or commenced therein under this act for the violation of any of the provisions thereof, and any person, association, organization or corporation filing, or causing to be filed, for registry, any label, trade mark, term or design pursuant to the provisions of this act, shall have the right to an action in the said court against any person or persons, association, organization or corporations, for the violation of any of the provisions of this act; and upon the filing of any bill of complaint therefor, the law and practice regulating proceedings in that court shall be applicable thereto; and the said court is hereby empowered and required to enjoin the manufacture, counterfeiting, imitation, display, use, sale, offer of sale, circulating or uttering of any counterfeit or imitation of any such label, trade mark, term or design of any such person, association, organization or corporation; and the sale or disposal of any goods, wares, merchandise or product of labor to which, or on which, any such counterfeit or imitation label, trade mark, term or design is attached, affixed, printed, painted, stamped, impressed or displayed; or any goods, wares, merchandise or product of labor contained in any box, case, can or package to or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, impressed or displayed; and further to enjoin the manufacture, use, sale, offer of

sale, or display, of any genuine label, trade mark, term or design of any such person, association, organization or corporation filing the same as aforesaid; or having in possession any such genuine label, trade mark, term or design with intent that the same shall be used, sold, offered for sale or displayed, or the same applied, attached or displayed in any manner whatever to or on any goods, wares, merchandise or product of labor; or the selling or offer to sell or dispose of, or having in possession with intent that the same shall be sold, offered for sale or disposed of, any goods, wares or merchandise in any box, case, can or package to or on which any such genuine label, trade mark, term or design of any such person, association, organization or corporation is attached, affixed or displayed; and from making any other, or any, use whatever of any such genuine label, trade mark, term or design, without having first obtained, in any and every such case, the consent and authority of the person, association, organization or corporation adopting, filing and registering the same, or causing the same to be filed and registered, as herein provided; and the said court of chancery is hereby empowered to make such other orders and direct such other proceedings as the court may deem necessary and proper for the due protection of the rights of complainants, effecting the purposes of this act, the prevention of any violation of any of the provisions of the same, and secure and protect any and all persons, associations, organizations or corporations in all the rights, privileges, property and interests to which they or any of them are or may be entitled in any such label, trade mark, term or design under any of the provisions of this act or otherwise; and it shall be the duty of the said court of chancery to award to the complainant or complainants in any such action any and all damages resulting from any such wrongful use of any such label, trade mark, term or design by any defendant or de-

fendants, or for any violation of any of the provisions of this act; and to require any such defendant or defendants to pay to such complainants any and all such damages, together with all costs and expenses incurred by any such complainant in any such action or proceeding; and the said court shall also order and decree that the defendants pay to the complainant or complainants any and all profits obtained, received or derived from any such wrongful use or any violation of the provisions of this act; or both profits and any such damages, and that any and all such counterfeits or imitations of any such labels, trade marks, terms or designs in the possession or under the control of the defendant or defendants in any such action shall be delivered up to an officer of the court, or to the complainant, to be destroyed, and that any such genuine labels, trade marks, terms or designs in the possession or under the control of any such defendant or defendants shall be delivered up to the complainant.

10. That, in addition to any other rights, remedies or penalties provided by this act, and as concurrent therewith, any person or persons, association, organization or corporation that shall violate any of the provisions of this act shall be liable to a penalty of not less than two hundred and not more than five hundred dollars, to be recovered in an action of debt in any court of law of this state having jurisdiction in civil causes, by any such person, association, organization or corporation that has adopted and filed, or caused the same to be done as aforesaid, any such label, trade mark, term or design; which action may be commenced by summons as in ordinary cases, and shall be proceeded with therein as ordinary cases in said court; and in case any execution shall be issued upon any judgment obtained against the defendant or defendants in any such action and the same be returned unsatisfied, the court on application and two

days' notice to the defendant, may award an execution to take the body of the defendant or defendants as in other cases where a *capias* may issue out of the circuit or supreme courts of this state; and thereafter the rights, remedies and liabilities of the parties, and the proceedings in the case shall be the same, or as nearly as may be, as in other actions in said courts where an execution to take the body of the defendant or defendants has been issued; and it shall be the duty of the court in which any such action may be brought to make all proper and necessary orders to restrain and prevent any defendant or defendants from continuing the committing of any violation of any of the provisions of this act.

11. In any suit or proceeding in equity, or in any action at law, brought by or on behalf of any such association or organization that is not incorporated, for any violation of any of the provisions of this act, the same may be brought in the recognized name of any such association or organization, or in the proper name of the president or the secretary or the treasurer of any such association or organization who has been or may be given authority to bring any action or actions for or in behalf of any such association or organization, and if for any reason such authority is not given before the commencement of any such suit or action, the same may be given thereafter at any time before the trial of the same; and any such suit in equity or action at law may be brought as aforesaid in the recognized name of any branch or local or sub-association, affiliated or connected with any national or international association or organization, or in the name of the president or the secretary or the treasurer thereof; and such authority to bring the same may be given by any board of directors, executive board or executive committee, of any such association or organization, elected, chosen or appointed by any such association or organiza-

tion; and any such person or persons bringing any such action or proceeding in any court of law or equity in this state shall have the right to receive any and all moneys, property or other valuable thing recovered by or adjudged to the complainant or plaintiff in any such suit or action, for the use and benefit of the association or organization entitled to the same; and whenever any such suit or action shall be brought by or on behalf of any such branch or local or sub-association or organization as herein provided instead of by or on behalf of any such national or international association or organization, such branch or local or sub-association bringing the same shall be entitled to the same rights, privileges, remedies and advantages, in the prosecution of such suit or action, as any other party or parties authorized by this act to bring such suit or action would have been entitled to if any such suit or action had been brought by them, or in their behalf, as herein provided.

12. This act shall be construed by all courts at all times, in all suits, actions and proceedings, in the most liberal manner for effecting the objects and purposes thereof and protecting the claims, rights, interests, use and property of every person, association, organization or corporation in and to any label, trade mark, term or design, filed and registered pursuant to the provisions of this act.

13. All acts and parts of acts contrary to, or inconsistent with the provisions of this act, be and the same are hereby repealed.

14. This act shall be deemed and taken to be a public act and shall take effect immediately.

Passed March 15, 1898.

Earlier acts for the protection of labels, stamps, trade marks, etc., can be found in Gen. St. 1709-1895, vol. 3, pp. 3678-3680.

Section 186, p. 1082, tit. "Crimes," vol. I, Gen. St. 1709-1895, makes it a misdemeanor to forge or counterfeit private stamps or labels, or to

sell any goods having thereon forged or counterfeited stamps or labels, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser.

NEW MEXICO.

No statutes in this territory dealing with this subject.

NEW YORK.

CUMMING & GILBERT'S GENERAL LAWS AND OTHER GENERAL STATUTES, JANUARY 1, 1902, PAGE 1050.

§ 28. Trade Marks. Any person engaged in manufacturing, bottling, or selling any beverage, medicine, perfumery or mixture in this state, put up by him for sale in any vessel or receptacle, with his name or other private mark branded, stamped or marked thereupon, may file in the office of the secretary of state and in the office of the county clerk of the county where the same is manufactured, bottled, or put up for selling, a description of the name or other private mark so branded, stamped, or marked thereupon, and publish the same once a week, for at least three weeks successively, in a newspaper published in said county, except in New York and Kings, where such publication shall be for the same length of time daily in two newspapers therein, and he shall thereupon be deemed the proprietor of such name or mark and of every vessel or receptacle upon which it may be branded, stamped or placed. No person, other than such proprietor, shall fill for any purpose, any such vessel or receptacle so branded, stamped or marked or from which any such brand, stamp, mark, name or other device has been removed, defaced or obliterated, nor remove, deface or obliterate the same, or place other brands, stamps, marks, names or devices upon any such vessel or receptacle without the written permission of such proprietor, or unless there has been

a sale to such person of such vessel or receptacle, exclusive of the contents thereof, by such proprietor.

No person other than such proprietor, shall, without his permission, use, traffic in, purchase, sell, dispose of, convert, mutilate, destroy or willfully or unreasonably refuse to return or deliver to such proprietor on demand, any such vessel or receptacle so branded, stamped or marked belonging to such proprietor.

Any person violating any provision of this section shall forfeit to such proprietor one hundred dollars for each such violation.

Possession of any such vessel or receptacle without the consent of the proprietor of the trade mark thereupon shall be presumptive evidence of such violation. (Laws 1896, c. 376, § 28.)

PAGE 1082. TRADE MARKS.

§ 1. Any and all persons and corporations engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages or medicines, medical preparations, perfumery, oils, compounds or mixtures, in bottles, siphons, tins or kegs, with his, her, its or their name or names, or other marks or devices branded, stamped, engraved, etched, blown, impressed, or otherwise produced upon such bottles, siphons, tins or kegs, or the boxes used by him, her, it or them, may file in the office of the clerk of the county in which his, her, its or their principal place of business is situated, or if such person, persons, corporation or corporations shall manufacture or bottle out of this state, then in any county in this state, and also in the office of the secretary of state, a description of the name or names, marks or devices so used by him, her, it or them, respectively, and cause such description to be

printed once in each week, for three weeks successively, in a newspaper published in the county in which said notice may have been filed as aforesaid, except that in the city and county of New York and the city of Brooklyn, in the county of Kings, such publication shall be made twice in each week, for three weeks successively, in two daily newspapers published in the cities of New York and Brooklyn, respectively. (Laws 1896, c. 933, § 1.)

§ 2. It is hereby declared to be unlawful for any person or persons, corporation or corporations to fill with soda water, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer or other beverages, or with medicine, medical preparations, perfumery, oils, compounds or mixtures, any bottle, box, siphon, tin or keg so marked or distinguished as aforesaid, with or by any name, mark or device, of which a description shall have been filed and published, as provided in section one of this act, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in the same without the written consent of, or unless the same shall have been purchased from the person or persons, corporation or corporations, whose mark or device shall be or shall have been in or upon the bottle, box, siphon, tin or keg so filled, trafficked in, used or handled as aforesaid. Any person or persons, or corporation or corporations offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished for the first offense by imprisonment for not less than ten days nor more than one year, or by a fine of fifty cents for each and every such bottle, box, siphon, tin or keg so filled, sold, used, disposed of, bought or trafficked in, or by both such fine and imprisonment, and for each subsequent offense by imprisonment for not less than twenty days nor more than

one year, or by a fine of not less than one dollar, nor more than five dollars, for each and every bottle, box, siphon, tin or keg so filled, sold, used, disposed of, bought or trafficked in, or by both such fine and imprisonment, in the discretion of the magistrate before whom the offense shall be tried. (Laws 1896, c. 933, § 2.)

§ 3. The use by any person, other than the person or persons, corporation or corporations, whose device, name or mark shall be or shall have been upon the same without such written consent or purchase as aforesaid, of any such marked or distinguished bottle, box, siphon, tin or keg, a description of the name, mark or device, whereon shall have been filed and published, as herein provided, for the sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer or other beverages, or any article of merchandise, medicines, medicinal preparations, perfumery, oils, compounds, mixtures or preparations, or for the furnishing of such or similar beverages to customers, or the buying, selling, using, disposing of or trafficking in any such bottles, boxes, siphons, tins or kegs by any person other than said persons or corporations having a name, mark or device thereon of such owner without such written consent, or the having by any junk dealer or dealers in second-hand articles, possession of any such bottles, boxes, siphons, tins or kegs, a description of the marks, names or devices, whereon shall have been so filed and published as aforesaid, without such written consent, shall and is hereby declared to be presumptive evidence of the said unlawful use, purchase and traffic in of such bottles, boxes, siphons, tins or kegs. (Laws 1896, c. 933, § 3.)

§ 4. Whenever any person, persons or corporation mentioned in section one of this act, or his, her, its or their agent shall make oath before any magistrate that he, she or

it has reason to believe, and does believe, that any of his, her, its or their bottles, boxes, siphons, tins or kegs, a description of the names, marks or devices whereon has been so filed and published as aforesaid, are being unlawfully used or filled, or had, by any person or corporation manufacturing or selling soda, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages or medicine, medical preparations, perfumery, oils, compounds or mixtures, or that any junk dealer or dealer in second-hand articles, vender of bottles, or any other person or corporation has any such bottles, boxes, siphons, tins or kegs in his, her or its possession, or secreted in any place, the said magistrate must thereupon issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession such bottles, boxes, siphons, tins or kegs may be found, and shall then inquire into the circumstances of such possession, and if such magistrate finds that such person has been guilty of a violation of section two of this act, he must impose the punishment herein prescribed, and he shall also award possession of the property taken upon such warrant to the owner thereof. (Laws 1896, c. 933, § 4.)

§ 5. The requiring, taking or accepting of any deposit, for any purpose, upon any bottle, box, siphon, tin or keg shall not be deemed or constitute a sale of such property, either optional or otherwise, in any proceeding under this act. (Laws 1896, c. 933, § 5.)

§ 6. Any person or persons, corporation or corporations, that has or have heretofore filed in the offices mentioned in section one of this act a description of the name or names, mark or devices upon his, her, their or its property, therein mentioned, and has caused the same to be published according to the law existing at the time of such filing and publica-

tion shall not be required to again file and publish such description to be entitled to the benefits of this act. (Laws 1896, c. 933, § 6.)

§ 7. All acts and parts of acts inconsistent herewith are, for the purposes of this act, hereby repealed. (Laws 1896, c. 933, § 7.)

Sections 15 and 16, p. 2053, protect labor unions or associations in the adoption and use of their labels, marks, names, etc.

PARKER'S NEW YORK PENAL CODE 1901, PAGE 105.

§ 364. A person who, knowingly, in a case where provision for the punishment for the offense is not otherwise specially made by statute:

1. Falsely makes or counterfeits a trade mark; or,
2. Affixes to any article of merchandise, a false or counterfeit trade mark, knowing the same to be false and counterfeit, or the genuine trade mark, or an imitation of the trade mark of another, without the latter's consent; or,
3. Sells, or keeps, or offers for sale, an article of merchandise, to which is affixed a false or counterfeit trade mark, or the genuine trade mark, or an imitation of the trade mark of another, without the latter's consent; or,
4. Has in his possession a counterfeit trade mark, knowing it to be counterfeit, or a die, plate, brand, or other thing for the purpose of falsely making or counterfeiting a trade mark; or,
5. Makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, an article of merchandise with such a trade mark as to appear to indicate the quantity, quality, character, place of manufacture or production, or persons manufacturing or producing the article, but not indicating it truly; or,
6. Who knowingly sells, offers or exposes for sale, any goods which are represented in any manner, by word or deed,

to be the manufacture or product of any person, firm or corporation, other than himself, unless such goods are contained in the original packages and under the labels, marks or names placed thereon by the manufacturer who is entitled to use such marks, names, brands or trade marks; or,

7. Who shall sell, or expose for sale, any goods in bulk, to which no label or trade mark shall be attached, and shall by representation, name or mark written or printed thereon, represent that such goods are the production or manufacture of a person who is not the manufacturer: is guilty of a misdemeanor. (Pen. Code, § 364.)

PAGE 149.

§ 365. The expression "article of merchandise," as used in this title, signifies any goods, wares, work of art, commodity, compound, mixture or other preparation or thing, which may be lawfully kept or offered for sale. (Pen. Code, § 365.)

§ 366. A "trade mark" is a mark used to indicate the maker, owner or seller of an article of merchandise, and includes among other things, any name of a person or corporation, or any letter, word, device, emblem, figure, seal, stamp, diagram, brand, wrapper, ticket, stopper, label or other mark, lawfully adopted by him, and usually affixed to an article of merchandise to denote that the same was imported, manufactured, produced, sold, compounded, bottled, packed or otherwise prepared by him: and also a signature or mark used or commonly placed by a painter, sculptor or other artist, upon a painting, drawing, engraving, statue or other work of art, to indicate that the same was designed or executed by him. (Pen. Code, § 366.)

§ 367. A trade mark is deemed to be affixed to an article of merchandise when it is placed in any manner in, or upon, either

1. The article itself; or,
2. A box, bale, barrel, bottle, case, cask, or other vessel or package, or a cover, wrapper, stopper, brand, label or other thing, in, by or with which the goods are packed, enclosed or otherwise prepared for sale or disposition. (Pen. Code, § 367.)

§ 368. An "imitation of a trade mark" is that which so far resembles a genuine trade mark as to be likely to induce the belief that it is genuine, whether by the use of words or letters similar in appearance or in sound, or by any sign, device or other means whatsoever. (Pen. Code, § 368.)

Sections 359-371, pp. 150, 151, said Penal Code, authorizes any person engaged in making, bottling, etc., milk, ale, beer, cider, mineral water, or other beverage, to register a trade mark, protect him in its use, and provide penalties for invasion of his rights in connection therewith.

NORTH CAROLINA.

Code 1883, Vol. 1.

Section 1038. Every person who shall knowingly and willfully forge, or counterfeit, or cause or procure to be forged or counterfeited, the private marks, tokens, stamps or labels of any mechanic, manufacturer, or other person being a resident of this state or of the United States, with intent to deceive and defraud the purchasers, mechanics or manufacturers of any goods, wares, or merchandise whatsoever, upon conviction thereof shall be punished by a fine of not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment of not less than thirty days or more than five years, or both fine and imprisonment, at the discretion of the court.

Sec. 1039. Every person who shall vend any goods, wares or merchandise having thereon any forged or counterfeited marks, tokens, stamps, or labels purporting to be the marks, tokens, stamps or labels of any person being a resident of

this state or of the United States, knowing the same at the time of the purchase thereof by him to be forged or counterfeited, shall be guilty of a misdemeanor, and punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one hundred dollars, or by both fine and imprisonment, at the discretion of the court.

Sec. 1040. If any person shall knowingly use the mark or brand of any other person on any sack, or shall knowingly impress on any sack the mark or brand of another person, with intent to defraud or for the purpose of enhancing the value of his own property, the person so offending shall be guilty of a misdemeanor, and punished as if convicted of larceny.

NORTH DAKOTA.

REV. CODES 1899.

§ 3485. One who produces or deals in a particular thing or conducts a particular business, may appropriate to his exclusive use as a trade mark any form, symbol or name which has not been so appropriated by another to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation or part of a designation which relates only to the name, quality, or the description of the thing or business, or the place where the thing is produced or the business is carried on.

§ 3486. The good will of a business is the expectation of continued public patronage, but it does not include a right to use the name of any person from whom it is acquired.

§ 3487. The good will of a business is property, transferable like any other.

§ 3979. One who sells or agrees to sell any article to which there is affixed or attached a trade mark, thereby warrants that mark to be genuine and lawfully used.

§ 3980. One who sells or agrees to sell any article to which

there is affixed or attached a statement or mark to express the quantity or quality thereof or the place where it was in whole or in part produced, manufactured or prepared thereby warrants the truth thereof.

§ 7256. Every person who willfully forges, counterfeits or procures to be forged or counterfeited any trade mark usually affixed by any person to any goods of such person, with intent to pass off any goods to which such forged or counterfeit trade mark is affixed or intended to be affixed, as the goods of such person, is guilty of a misdemeanor.

§ 7257. Every person who, with intent to defraud, has in his possession any die, plate or brand, or any imitation of the trade mark of any person, for the purpose of making any counterfeit or imitation of any description whatever of such trade mark, or of selling the same when made, or affixing the same to any goods, and selling or offering the same for sale or disposal as the original goods of any other person, and every person who so uses or sells the same, or who fraudulently uses the genuine trade mark of another with intent to sell or offer for sale or disposal, any goods not the goods of the person to whom such trade mark properly belongs, as genuine and original, is guilty of a misdemeanor.

§ 7258. Every person who either:

1. Uses or causes to be used any brand, mark, name, print, designation or description, the same as or similar to any recorded to any other person, or on the place recorded to another; or,

2. Uses or causes to be used any second hand sacks, box, barrel, can, package or other article on which has been placed any brand, mark, name, print, designation or description, the property of another, for the purposes of deception or profit, is guilty of a misdemeanor, and upon conviction thereof is punishable by fine of not less than one hundred and not exceeding one thousand dollars.

§ 7259. Every person who sells or keeps for sale any goods upon which any counterfeit trade mark has been affixed, and intended to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor.

§ 7260. Every person who, with intent to defraud, affixes or causes to be affixed to any goods, or to any bottle, case, box or other package containing any goods, any description of label, stamp, brand, imprint, printed wrapper, label or mark, which designates such goods by any word or token which is wholly or in part the same to the eye or to ear as the word or any of the words or tokens used by any other person as his trade mark, and every person who knowingly sells, or keeps, or offers for sale any such bottle, case, box, or other package with any such label, stamp, brand, imprint, printed wrapper, ticket or mark affixed to, or upon it, in case the person affixing or causing to be affixed such mark, or so selling or exposing or offering for sale such bottle, case, box, or other package, was not the first to employ or use such words as his trade mark, is guilty of a misdemeanor, and in addition to the punishment prescribed therefor is liable to the party aggrieved in the penal sum of one hundred dollars for each and every offense, to be recovered by him in a civil action.

§ 7261. The words "trade mark," as used in the sections preceding, include every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description.

§ 7262. The word "goods," as used in the sections pre-

ceding, includes every kind of goods, wares, merchandise, compound or preparation, which may be lawfully kept or offered for sale.

§ 7263. The offense of affixing a false trade mark to goods is equally complete within the meaning of sections 7256, 7259 and 7260, whether such mark is affixed to the goods themselves or to any box, bale, barrel, bottle, case, cask, wrapper or other package or vessel, or any cover or stopper thereof, in which such goods are put up.

Sections 7264-7266 protect manufacturers and bottlers of soda, mineral water, and other beverages in the use of their bottles, etc.

OHIO.

BATES' ANN. ST., 3d ED., 1787-1902.

Section 7069. Whoever vends, or keeps for sale, any goods, merchandise, mixture, or preparation upon which any forged or counterfeit stamp, brand, imprint, wrapper, label, or trade mark is placed or affixed, and intended to represent the said goods, merchandise, mixture or preparation, as the true and genuine goods, merchandise, mixture or preparation of any other person, knowing the same to be counterfeit, shall be fined not more than one hundred dollars.

Sec. 7096. Whoever willfully forges or counterfeits any representation, likeness, similitude, copy or imitation of the private brand, wrapper, label or trade mark usually affixed by any person to or upon the goods, wares, merchandise, preparation or mixture of such person, or by any maker of wine from grapes grown within this state, to the bottles or casks used by him to contain the same, with intent to pass off any work, goods, manufacture, wine, compound, preparation, or mixture, to which such forged or counterfeit representation, likeness, similitude, copy, or imitation is affixed, or intended to be affixed, as the work, goods, manufacture, wine, com-

pound, preparation or mixture of such person, shall be fined not more than five hundred dollars, or imprisoned not more than twelve months, or both.

Sec. 7098. Whoever has in his possession any die, plate, brand, engraving, printed label, stamp, imprint, wrapper, or trade mark, or any representation, likeness, similitude, copy, or imitation thereof, usually affixed by any person to or upon articles made, manufactured, prepared, or compounded by him, for the purpose of making impressions, or selling the same when made, or using the same upon any other articles made, manufactured, prepared, or compounded, and passing the same off upon the community as the original goods, manufacture, preparation, or compound of any other person, or so in fact sells or uses the same, [or] wrongfully and fraudulently uses the genuine stamp, brand, imprint, wrapper, label, or trade mark, with intent to pass off any goods, wares, merchandise, mixture, compound, or other article, not the manufacture of the person to whom such stamp, brand, imprint, wrapper, label, or trade mark properly belongs, as genuine and original, shall be fined not more than five hundred dollars, or imprisoned not more than twelve months, or both.

Sections 4364-42 to 4364-44, as amended pages 248-250, Laws of Ohio of 1902, relate to persons and corporations engaged in manufacturing, bottling, or selling ginger ale, seltzer water, soda water, mineral water, and other beverages, or other article of merchandise, medicine, compound, or preparation, and are designed to furnish protection for such persons and corporations against the unauthorized use of or injury to their bottles, boxes, casks, kegs, etc., by other parties.

Sections 4364-49 to 4364-53c, last section added, pp. 454, 455, Laws of Ohio of 1902, protect labor unions in the use of their labels, marks, names, etc.

Sections 4364-55 to 4364-61 provide that any person, firm, or corporation dealing in timber in any form shall be called and known as "timber dealers," and authorize them as such to adopt and record a trade mark, and protect them in its use on their timber, and their ownership of the timber marked therewith, and affix penalties for invasion of their rights in such trade mark and timber.

Sections 7069-1 and 7069-2 provide penalties for using a trade mark, etc., indicating sterling or sterling silver, or coin or coin silver, on any article, unless nine hundred one-thousandths part of the component parts of the metal of which the article is manufactured is pure silver.

OKLAHOMA.

LAWS 1897, CH. 40.

An act to provide a label law for the territory of Oklahoma.

Section 1. Whenever any person or any association or union of workmen has heretofore adopted or used or shall hereafter adopt or use any label, trade mark, term, design, device or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement.

Sec. 2. Whoever counterfeits or imitates any such label, trade mark, term, design, device or form of advertisement, or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement, or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is

printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed or painted, stamped or impressed, or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more than a hundred dollars, or by imprisonment for not more than three months.

Sec. 3. Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement, as provided in section one of this act, may file the same for record in the office of the secretary of the territory of Oklahoma by leaving two copies, counterparts or *fac similes* thereof with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing, or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same: that no other person, firm, association, union or corporation has the right to such use either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac similes* or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar.

Said secretary shall deliver to such person, association or

union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade mark, term, design, device or form of advertisement. Said secretary of the territory shall not record for any person, union or association any label, trade mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade mark, term, design, device or form of advertisement.

Sec. 4. Any person who shall for himself, or on behalf of any other person, association or union, procure the filing of any label, trade mark, term, design or form of advertisement in the office of the secretary of the territory, under the provisions of this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not to exceed three months.

Sec. 5. Every such person, association or union adopting or using a label, trade mark, term, device, or form of advertisement as aforesaid may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and may award the complainant in any such suit, damages resulting from such manufacture, use, sale or display as may be by the said court deemed just and reason-

able and shall require the defendants to pay to such person, associations or union all profits derived from such wrongful manufacture, use, display or sale, and such court shall also order that all counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court or to the complainant, to be destroyed.

Sec. 6. Every person who shall use or display the genuine label, trade mark, term, design, device or form of advertisement of any such person, association or union, in any manner not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months, or by fine of not more than one hundred dollars. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of, and for the use of, such association or union.

Sec. 7. Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months, or by a fine of not more than one hundred dollars.

Sec. 8. This act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1897.

Chapter 49, Sess. Laws 1895, protects manufacturers and dealers in carbonated goods, soda waters, and other beverages against the unauthorized use of or injury to their bottles, kegs, casks, boxes, siphons, etc., by other persons.

OREGON.

BELLINGER & COTTON'S ANN. CODES AND STATUTES, 1901.

§ 1840. If any person shall willfully and knowingly use or cause to be used any private brand, label, stamp or trade mark of another, either by counterfeiting the same or using any impression or copy thereof made or prepared by the proprietor thereof; or shall willfully and knowingly use or cause to be used any colorable imitation of such brand, label, stamp or trade mark with intent to deceive any one; or shall, with like intent, use or cause to be used any empty or second-hand package which has contained goods, wares, merchandise, article or articles of the same general character as those for which they were first used, upon conviction thereof, such person shall be punished by imprisonment in the county jail not less than one month nor more than six months, or be fined not less than twenty nor more than three hundred dollars. [As amended 1899.]

§ 4609. Any person, partnership, firm or private corporation desiring to secure within this state the exclusive use of any name, mark, brand, designation or description for any article of manufacture or trade, or for any mill, hotel, factory, machine shop or other place of business, shall deliver or cause to be delivered to the secretary of state a particular description or a *fac simile* of such mark, brand, name, designation or description as he may desire to use.

§ 4610. If there be not already a claim filed with the secretary of state for the same or a similar name, mark, brand, designation, or description, he shall immediately record the one furnished in a book to be specially provided and kept by him for such purpose, which book shall be kept at all times subject to public inspection and examination. If there be already filed the same or a similar brand, mark, designation or description, the secretary shall so inform the applicant, and shall not record the same.

§ 4611. Any person, partnership, firm or corporation that shall use or cause to be used any name, mark, brand, designation or description the same as or similar to one so secured or recorded, for the purpose of deception or profit, shall forfeit to the use of the owner of the name, mark, brand, designation or description so taken or imitated, one-half of the property, goods or articles of trade upon which the same may be used or placed, or the value thereof, to be recovered by the said owner in any court having jurisdiction of the subject-matter.

§ 4612. Any person, partnership, firm or private corporation that shall use any such mark, brand, name, designation or description a second or greater number of times shall forfeit the whole of the property or article upon which the same is placed or used, or the value thereof, to be recovered in the manner provided in the preceding section.

§ 4613. Any person, partnership, firm or private corporation that shall use or cause to be used any second-hand sack, box, barrel, can, package, or other article on which has been placed any name, mark, brand, designation or description, the property of another, for the purpose of deception, shall be liable to the same forfeiture of the property inclosed therein as is provided in sections 4611 and 4612.

§ 4614. If any goods, wares, merchandise, or other articles, shall be imported into this state on which shall be used, for the purpose of deception, the same or any similar mark, name, brand, designation or description, as may have been secured under the provisions of this chapter, said goods, wares, merchandise or other articles shall be forfeited to the use of the party injured as provided in sections 4611 and 4612.

§ 4615. A fee of two dollars and a half shall be paid to the secretary of state by the owner of said trade mark. as pay for recording.

§ 4616. Nothing in this act shall be construed so as to affect the power of courts of equity to perpetually restrain by injunction the improper use of any mark, brand, name, description, or designation which may have been secured by the provisions of this chapter.

Sections 1841 to 1848, inclusive, protect any person or any association or union of workmen in the adoption and use of a label, trade-mark, term, design, device, or form of advertisement, for certain purposes.

PENNSYLVANIA.

PEPPER & LEWIS' DIG., 1700 to 1894, PAGE 1207.

279. If any person shall knowingly and willfully forge or counterfeit, or cause or procure to be forged or counterfeited, any representation, likeness, similitude, copy or imitation of the private stamps, wrappers or labels usually affixed by any mechanic or manufacturer to and used by such mechanic or manufacturer on or in the sale of any goods, wares or merchandise, with intent to deceive or defraud the purchaser or manufacturer of any goods, wares or merchandise whatsoever, such person shall be guilty of a misdemeanor and, on conviction thereof, be sentenced to pay a fine not exceeding one hundred dollars, and undergo an imprisonment not exceeding two years. (1860, March 31; P. L. 382, § 173.)

280. If any person shall have in his possession any die, plate, engraving or printed label, stamp or wrapper, or any representation, likeness, similitude, copy or imitation of the private stamp, wrapper or label usually affixed by any mechanic or manufacturer to and used by such manufacturer or mechanic on or in the sale of any goods, wares or merchandise, with intent to use or sell the said die, plate, engraving or printed stamp, label or wrapper, for the purpose of aiding or assisting, in any way whatever, in vending any goods,

wares or merchandise, in imitation of or intended to resemble and to be sold for the goods, wares or merchandise of such mechanic or manufacturer, such person shall be guilty of a misdemeanor, and, upon being thereof convicted, be sentenced to pay a fine not exceeding one hundred dollars, and to undergo an imprisonment not exceeding one year. (1860, March 31; P. L. 382, § 174.)

281. If any person shall vend any goods, wares or merchandise, having thereon any forged or counterfeited stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, and resembling or purporting to be imitations of the stamps or labels of such mechanic or manufacturer, without disclosing the fact to the purchaser thereof, such person shall, upon conviction, be deemed guilty of a misdemeanor, and be sentenced to pay a fine not exceeding five hundred dollars. (1860, March 31; P. L. 382, § 175.)

No. 286, LAWS 1901.

An act to provide for the registration of labels, trade-marks, trade-names, stamps, designs, devices, shopmarks, terms, brands, designations, descriptions, or forms of advertisement, and protect and secure the rights, property and interest therein of the persons, copartnerships or corporations adopting and filing the same, and providing penalties for the violations of the act.

Section 1. Be it enacted, etc., that whenever any person or persons, copartnership or corporation, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, trade-name, device, shopmark, designation or form or advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor, as having been manufactured, prepared, packed, bottled or placed on sale by such person or

persons, copartnership or corporation, he or they, if residents of or doing business in the United States, may file the same for record in the office of the secretary of state of the state of Pennsylvania, by leaving two copies, counterparts or *facsimiles* thereof with said secretary; and shall file therewith a certificate, specifying the names of the person or persons, copartnership or corporation, so filing such label, trade-mark, trade-name, device, brand, shopmark, designation or form of advertisement; his or its residence, location or place of business; the class of merchandise, and the particular description of goods comprised therein, the class to which it has been or is intended to be appropriated, and the length of time, if any, during which it has been in use. Such certificate shall be accompanied by the written declaration verified under oath by the person or one of [the] persons, or some member of the copartnership or officer of the corporation, by whom it is filed, to the effect that the party so filing such label, trade-mark, trade-name, device, shopmark, designation, description, or form of advertisement, has the right to the use of the same, and that no other person or persons, copartnership or corporation, has a right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *facsimiles*, copies or counterparts filed therewith are true and correct. There shall be paid to such secretary, for such filing, a fee of one dollar. Said secretary shall deliver to such person or persons, copartnership or corporation, so filing the same, a duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate of record shall, in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade-mark, trade-name, stamp, design, device, term, brand, shopmark, designation, description or form of advertisement. No label, trade-mark, trade-name, stamp, design, device,

term, brand, shopmark, designation, description, or form of advertisement shall be recorded that would reasonably be mistaken for the label, trade-mark, trade-name, stamp, design, device, term, brand, designation, shopmark, description, or form of advertisement, already filed of record.

Section 2. That the secretary of state is authorized to make rules and regulations, and prescribe forms, for the filing of labels, trade-marks, trade-names, stamps, designs, devices, terms, brands, designations, shopmark, descriptions, and forms of advertisement, under the provisions of this act.

Section 3. That whenever [any] person or persons, copartnership or corporation, has heretofore adopted and filed for record or registry, or shall hereafter adopt and file for registry, any label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, as herein provided, it shall be unlawful, and a violation of this act, for any other person, copartnership or corporation to make any use, sale, offer for sale, or display of the genuine label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, or any such likeness or imitation thereof as shall be calculated or liable to deceive, of any such person or persons, copartnership or corporation, filing the same; or to sell, offer to sell or dispose of, any goods, wares or merchandise, in bulk or in any box, case, can, bottle or package, to or which any such genuine label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, filed for record as aforesaid, or any such likeness or imitation thereof is attached, affixed or displayed; or to make any wrongful use whatever of any such genuine label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, or any such likeness or imitation thereof; or to, in any way, use the name or seal of any such person or persons, copartnership or corporation, or any such likeness or

imitation thereof, in and about the sale of goods or otherwise, without first obtaining in every such case the license, consent or authority of the person or persons, copartnership or corporation, adopting, filing and registering the same; and it shall be unlawful for any other person or persons, firm, copartnership or corporation to make any use of such label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, so filed, or any such likeness or imitation thereof, or utter or display the same orally or in any printed or written form in the conduct of his business or in any business transaction, attached to merchandise or products of labor, or detached from and independent of the same, on invoice, letter-heads, bills or advertisements, without express consent, license and authority of the person or persons, copartnership or corporation, so filing the same; and any such license, consent or authority may be revoked and terminated at any time, upon notice, and thereafter any use thereof shall be a violation of this act, and subject those violating the same to all the liabilities and penalties herein provided against any violation thereof. He [the secretary of state] shall refuse to file or register any label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, identical with, or so similar to as to be calculated or liable to deceive, any label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, filed or registered, unless it shall be proved to his satisfaction that the person or persons, copartnership or corporation, lastly applying for the registry of such label, trade-mark, trade-name, device, shopmark, designation, or form of advertisement, shall be entitled thereto, and the owner thereof by right of prior adoption; in which case the date of the adoption shall determine the ownership, and shall be proved by affidavits of persons conversant with such dates. In the case the secretary of state becomes satisfied, after hearing the said af-

fidavits, that the person or persons, copartnership or corporation, last applying for registry is entitled to priority of adoption to register such trade-mark, trade-name, device, shop-mark, designation, or form of advertisement, he shall revoke the first registry thereof, and re-register the same in the name of said applying person or persons, copartnership or corporation.

Section 4. That any person or persons who shall hereafter wrongfully perform, or permit to be performed, any act expressly prohibited or declared unlawful by section three of this act, shall be subject to a penalty of two hundred dollars, to be sued for in any court having jurisdiction for a fine or penalty, by any person or persons, copartnership or corporation, aggrieved in the matter; and the court having jurisdiction of the parties shall grant an injunction restraining the defendant from such unlawful acts, and in addition to the penalty provided for in this section shall award to the plaintiff such damages, resulting from such wrongful and unlawful acts, as may be proved, and shall require the defendant to pay to the plaintiff the profits derived from such unlawful acts.

Section 5. That all acts and parts of acts contrary to or inconsistent with the provisions of this act be and the same are hereby repealed: provided, that the provisions of this act shall not in any way affect, or interfere with the provisions of the act of Assembly, entitled "An act to provide for the adoption of trade-marks, labels, symbols, or private stamps by any incorporated or unincorporated association or union of workmen, and to regulate the same," approved May twenty-one, Anno Domini one thousand eight hundred and ninety-five, or with the amendments thereto, approved May two, Anno Domini one thousand nine hundred and one.

Section 6. That this act shall take effect immediately.

Approved the 20th day of June, A. D. 1901.

The act of May 8, 1889 (Pepper & Lewis' Dig. p. 433), authorizes Trade-Marks—50.

the registering of bottles used by manufacturers or vendors of beverages or other articles of merchandise, and protects them against the unauthorized use of or injury to such bottles by other persons.

The act of April 4, 1865 (Pepper & Lewis' Dig. p. 439), is designed to furnish protection to brewers of malt liquors against the unauthorized use of refilling of their vessels by other parties.

The act, p. 613, Supplement, vol. 3, Pepper & Lewis' Dig. 1894 to 1897, as amended by Act No. 84, P. L. 1901, provides for adoption of trade-marks, labels, etc., by any incorporated or unincorporated association or union of workingmen, and for regulation of same, and is exempted from repeal by section 5 of Act No. 286, P. L. 1901, above quoted.

RHODE ISLAND.

PUBLIC LAWS OF 1900-1, CH. 735.

An act for the protection of labels and seals of labor organizations, associations, and societies in the state of Rhode Island and Providence Plantations.

Section 1. Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device, or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise, or other product of labor as having been made, manufactured, produced, prepared, packed, or put on sale by such person, or association or union of workingmen, or by a member, or members, of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device, or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device, or form of advertisement.

Sec. 2. Whoever knowingly counterfeits or imitates any such label, trade-mark, term, design, device, or form of advertisement which has been filed and recorded in the office of the secretary of state as hereinafter provided; or knowingly

sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement; or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped, or impressed; or knowingly sells or disposes of any goods, wares, merchandise, or other product of labor contained in any box, case, can, or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed; or knowingly keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor in any box, case, can, or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months.

Sec. 3. Every such person, association, or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device or form of advertisement as provided in section 1 of this act, shall file the same for record in the office of the secretary of state by leaving two copies, counterparts, or *facsimiles* thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association, or union on whose behalf such label, trade-mark, term, design, device, or form of advertisement shall be filed; the class of merchandise, and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing, or on whose behalf such label, trade-mark, term, design, device, or form of advertisement shall be filed, has the right to the use of the same, that no other person, firm,

association, union, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *facsimile* or counterparts filed therewith are true and correct, before there shall be any liability to any suit or proceeding for any violation of this act. There shall be paid for such filing and recording a fee of one dollar. Said secretary of state shall cause a description of such label, trade-mark, term, design, device, or form of advertisement to be published once a week for three successive weeks, at the expense of the applicant, in some newspaper published in the city of Providence. After such publication said secretary shall deliver to such person, association, or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark, term, design, device, or form of advertisement. Said secretary of state shall not record for any person, union, or association any label, trade-mark, term, design, device, or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device, or form of advertisement theretofore filed by or on behalf of any other person, union, or association.

Sec. 4. Any person who shall, for himself or on behalf of any other person, association, or union, procure the filing of any label, trade-mark, term, design, or form of advertisement in the office of the secretary of state under the provisions of this act by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sus-

tained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months. In any suit or prosecution under the provisions of this act, the defendant may show that he or it was the owner of such label, trade-mark, term, design, device, or form of advertisement prior to its being filed under the provisions of this act, and that it had been filed wrongfully or without right by some other person, association or union.

Sec. 5. Every such person, association, or union adopting or using a label, trade-mark, term, design, device, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction may grant injunctions to restrain such manufacture, use, display, or sale, and may award the complainant in any such suit damages resulting from such manufacture, use, sale, or display, as may be by the said court deemed just and reasonable, and may require the defendants to pay such person, association or union all profits derived from such wrongful manufacture, use, display, or sale; and such court may also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant, to be destroyed.

In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union, on behalf of and for the use of such association or union.

Sec. 6. Any person or persons who shall in any way use the name or seal of any such person, association, or union, or officer thereof, in and about the sale of goods or otherwise,

not being authorized to use the same, shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months or by fine of not more than one hundred dollars.

Sec. 7. The provisions of this act shall not abridge any rights to any trade-marks existing at the time of the passage of this act, whether the same shall be recorded or not, nor any remedies or rights of action otherwise or theretofore existing in favor of owners of trade-marks.

Sec. 8. The district courts of the several judicial districts shall have jurisdiction of all complaints for violation of this act.

Sec. 9. This act shall take effect and be in force from and after the first day of June, A. D. 1900, and all acts and parts of acts inconsistent herewith are hereby repealed.

Chapter 627, Pub. Laws 1898-1899, affords protection to manufacturers, bottlers, and vendors of soda water, mineral water, ale, beer, or other liquids that may be used as food or beverages, or medicines, perfumery, oils, compounds, etc., in the use of their bottles, barrels, kegs, casks, cans, etc., and prohibits the unauthorized use of or the defacement of names, marks, etc., upon such bottles, barrels, kegs, casks, cans, etc., by other parties.

SOUTH CAROLINA.

No. 601, Laws 1902, protects manufacturers, bottlers, and vendors of soda water, mineral waters, and other beverages against the unauthorized refilling or sale of, or defacement of names and marks upon, their bottles, siphons, casks, boxes, etc., by other persons.

SOUTH DAKOTA.

ANN. ST. 1901.

3588. There may be ownership of * * * the goodwill of a business, trade-marks and signs, and of rights created or granted by statute.

4387. One who produces or deals in a particular thing

or conducts a particular business, may appropriate to his exclusive use as a trade mark any form, symbol or name which has not been so appropriated by another to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation or part of a designation which relates only to the name, quality, or the description of the thing or business, or the place where the thing is produced or the business is carried on.

4388. The goodwill of a business is the expectation of continued public patronage, but it does not include a right to use the name of any person from whom it is acquired.

4389. The goodwill of a business is property, transferable like any other.

4825. One who sells or agrees to sell any article to which there is affixed or attached a trade mark, thereby warrants that mark to be genuine and lawfully used.

4826. One who sells or agrees to sell any article to which there is affixed or attached a statement or mark to express the quantity or quality thereof, or the place where it was in whole or in part produced, manufactured or prepared, thereby warrants the truth thereof.

7875. Every person who willfully forges, counterfeits or procures to be forged or counterfeited any trade mark usually affixed by any person to any goods of such person, with intent to pass off any goods to which such forged or counterfeit trade mark is affixed or intended to be affixed, as the goods of such person, is guilty of a misdemeanor.

7876. Every person who, with intent to defraud, has in his possession any die, plate or brand, or any imitation of the trade mark of any person, for the purpose of making any counterfeit or imitation of any description whatever of such trade mark, or of selling the same when made, or affixing the same to any goods, and selling or offering the same for sale or disposal as the original goods of any other per-

son, and every person who so uses or sells the same, or who fraudulently uses the genuine trade mark of another, with intent to sell or offer for sale or disposal, any goods not the goods of the person to whom such trade mark properly belongs, as genuine and original, is guilty of a misdemeanor.

7877. Every person who sells or keeps for sale any goods upon which any counterfeited trade mark has been affixed, intended to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor.

7878. Every person who, with intent to defraud, affixes or causes to be affixed to any goods, or to any bottle, case, box or other package containing any goods, any description of label, stamp, brand, imprint, printed wrapper, label or mark, which designates such goods by any word or token which is wholly or in part the same to the eye or to ear as the word or any of the words or tokens used by any other person as his trade mark, and every person who knowingly sells, or keeps, or offers for sale any such bottle, case, box, or other package with any such label, stamp, brand, imprint, printed wrapper, ticket or mark affixed to, or upon it, in case the person affixing or causing to be affixed such mark, or so selling or exposing or offering for sale such bottle, case, box or other package, was not the first to employ or use such words as his trade mark, is guilty of a misdemeanor, and in addition to the punishment prescribed therefor is liable to the party aggrieved in the penal sum of one hundred dollars for each and every offense, to be recovered by him in a civil action.

7879. The word "trade mark," as used in the sections preceding, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to denote any goods to be goods

imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description.

7880. The word "goods," as used in the sections preceding, includes every kind of goods, wares, merchandise, compound or preparation, which may be lawfully kept or offered for sale.

7881. The offense of affixing a false trade mark to goods is equally complete within the meaning of sections sixty-six hundred and twelve, sixty-six hundred and fourteen and sixty-six hundred and fifteen,* whether such mark is affixed to the goods themselves or to any box, bale, barrel, bottle, case, cask, wrapper or other package or vessel, or any cover or stopper thereof, in which such goods are put up.

Sections 3347 to 3351 and 7882 to 7884 protect manufacturers and bottlers of soda, mineral water, and other beverages in the use of their bottles, etc.

Sections 3352 to 3357, inclusive, protect labor unions and associations in the use of their labels, etc.

TENNESSEE.

ACTS OF 1897, CH. 107.

An act to provide for the filing and recording by any person or association or union of workingmen, of a label, trade mark, term, design, device or form of advertisement for the purpose of designating or making known or distinguishing any goods, wares or other products of labor as having been made, manufactured, produced or put on sale by such person, association or union of workingmen or by a member of such union or association,

*Sections 7875, 7877, and 7878 are the sections here intended to be referred to. In the Dakota Code of 1887 these sections were numbered 6612, 6614, and 6615. respectively; and in section 3351, section 3347 is referred to as 2443.

and to prohibit the counterfeiting or imitation or unauthorized use of such label, trade mark, term, design, device or form of advertisement, and to prescribe punishment for a violation of the provisions of this act.

Section 1. That whenever any person or any association or union of workmen has heretofore adopted or used, or shall hereafter adopt or use any label, trade mark, term, design, device or form of advertisement, for the purpose of designating, making known or distinguishing any goods, wares, merchandise, or other products of labor, as having been made, manufactured, produced, prepared, packed or put on sale, by such person, or association, or union of workmen, or by a member or members of such association, or union, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate, any counterfeit or imitation of any such label, trade mark, term, device or form of advertisement.

Sec. 2. That whoever counterfeits or imitates any such label, trade mark, term, design, device or form of advertisement, or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement; or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which, any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor

in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than three months.

Sec. 3. That every person, association or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement, as provided in section 1 of this act, may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or *fac similes* thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing, or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac simile* or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade mark, term, design, de-

vice or form of advertisement. Said secretary of state shall not record for any person, union or association any label, trade mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association.

Sec. 4. That any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade mark, term, design or form of advertisement in the office of the secretary of state under the provisions of this act, by making any false or fraudulent representations or declarations, verbally or in writing or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by, or on behalf of, the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months.

Sec. 5. That every such person, association or union adopting or using a label, trade mark, term, design, device or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale and may award the complainant in any such suit, the court having jurisdiction, such damages resulting from such manufacture, use, sale or display as may be by the court or jury deemed just and reasonable; and shall require the defendants to pay to such person, association or union all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case, be delivered to an officer of the court, or to the complainant, to be destroyed.

Sec. 6. That every person who shall use or display the genuine label, trade mark, term, design, device or form of advertisement of any such person, association or union in any manner not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months, or by a fine of not more than one hundred (\$100) dollars. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union.

Sec. 7. That any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars.

Sec. 8. That this act shall take effect and be in force from and after its passage, the public welfare requiring it.

Approved February 6, 1897.

TEXAS.

GENERAL LAWS 1895, CH. 81.

An act to protect persons, associations, private corporations and unions of workmen, incorporated or unincorporated, in their labels, trade marks, designs, devices, imprints, and forms of advertising and names; and to prescribe penalties for violation of same, and to repeal all laws or parts of laws in conflict with this act.

Section 1. That whenever any person, association, private corporations or union of workmen, incorporated or unin-

corporated, have adopted or shall hereafter adopt for their protection any label, trade mark, design, device, imprint or form of advertisement, indicating that goods to which such label, trade mark, design, device, imprint or form of advertisement shall be attached, were manufactured by such person, association, private corporations or union, or by a member or members of such association or union, it shall be unlawful for any person, inclusive of officers, agents, receiver or receivers of corporations, to counterfeit or imitate such label, trade mark, design, device, imprint or form of advertisement or to use such counterfeit or imitation of such label, trade mark, design, device, imprint or form of advertisement, knowing the same to be counterfeit or imitation, or to aid, assist, countenance or knowingly permit such counterfeit or imitation or the use of such counterfeit or imitation for his own use or benefit, or for the use or benefit of any corporation of which he may then be an officer, agent or receiver. Every person, whether in his individual capacity or as an officer, agent or receiver of a corporation, violating this section, shall, upon conviction, be punished by a fine of not less than twenty-five nor more than one hundred dollars. Each day's violation of this section shall be considered a separate offense.

Sec. 2. Every person, whether in his individual capacity or as the officer, agent or receiver of a corporation, who shall willfully and knowingly use or display the genuine label, trade mark, design, device, imprint, or form of advertisement, or name of any such person, association or union, incorporated or unincorporated, not being authorized to use or display the same, or shall aid, assist, countenance or knowingly permit the use of same, not being authorized to use the same, shall, upon conviction, be punished by fine of not less than twenty-five nor more than one hundred dollars.

Sec. 3. Every person, association or union of workmen, incorporated or unincorporated, having adopted a label, trade

mark, design, device, imprint or form of advertisement, as aforesaid, may proceed by suit to enjoin the wrongful manufacture, use, display or sale of any such label, trade mark, design, device, imprint or form of advertisement, and the manufacture, use, display or sale of any such counterfeit or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the plaintiff in such suit such damages resulting from such wrongful manufacture, use, display or sale as by him may have been sustained. Where such association or union is not incorporated suits under this act may be commenced and prosecuted by any officer or member of such association or union in his own name, for himself and for the use and benefit of such association or union.

Sec. 4. Every person, association or union of workmen, incorporated or unincorporated, that has heretofore or shall hereafter adopt a label, trade mark, design, device, imprint or form of advertisement, shall file the same in the office of the secretary of state by leaving two copies, counterparts or *fac similes* thereof, with the secretary of state, and said secretary shall deliver back to such person, association or union so filing the same one of said copies, counterparts or *fac similes*, along with and attached to a duly attested certificate of the filing of same, for which he shall receive a fee of one dollar from such person, association or union. Such certificate of filing shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade mark, design, device, imprint or form of advertisement, and of the right of such person, association or union to adopt the same. No label, trade mark, design, device, imprint or form of advertisements shall be filed as aforesaid that would probably be mistaken for a label, trade mark, design, device, imprint or form of advertisement already of

record: provided, that no person or association shall be permitted to register as a label, trade mark, design, device, imprint or form of advertisement, any emblem, design or resemblance thereto that has been adopted or used by any charitable, benevolent or religious society or association without their consent: and provided, further, that all persons, institutions or associations now using a label, trade mark, design, device, imprint or form of advertisement shall have thirty days' time after this act takes effect in which to file such label, trade mark, design, device, imprint or form of advertisement under the provisions of this act, before the same can be registered by others.

Sec. 5. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 6. It being important that the benefits of this act be realized at once, because the parties to be benefited by this act have no adequate protection under existing laws, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 29, 1895.

In Wilson's Tex. Crim. St. 1897, sections 1 and 2 of the above act appear as articles 918d and 918e, respectively, of the Penal Code, and sections 3 and 4 appear as articles 318c and 318d, respectively, at page 148 of Sayles' Civ. St. Tex. 1897.

Articles 318a, 318b, p. 148, Sayles' Civ. St. Tex. 1897, and articles 918a. (as amended by chapter 110, p. 288, Gen. Laws 1901), 918b, 918c, Wilson's Crim. St. Tex. 1897, p. 390, Penal Code, protect manufacturers or dealers in mineral water and other beverages, and manufacturers of medicines or other compounds, against the unauthorized use or sale of or injury to their bottles, boxes, siphons, etc., by other persons.

UTAH.

REV. ST. 1898.

Section 2720. The phrase "trade mark" as used in this

title includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant, tradesman, association, or union, whether incorporated or unincorporated, to denote any goods to be goods imported, manufactured, produced, compounded, or sold by him, or by such association or union, other than any name, word, or expression generally denoting any goods to be of some particular class or description.

Sec. 2721. Any person, association or union, may record any trade mark or name, by filing with the secretary of state his or its claim to the same, and a copy or description of such trade mark or name, with his affidavit attached thereto, certified to by any officer authorized to take acknowledgments of conveyances, setting forth that he, or the firm, corporation, association or union of which he is a member, is the exclusive owner, or agent of the owner, of such trade mark or name.

Sec. 2722. The secretary of state must keep for public examination a record of all trade marks or names filed in his office, with the date when filed and name of claimant; and must at the time of filing collect from each claimant the authorized fee.

Sec. 2723. Any person who has first adopted and used a trade mark or name, whether within or beyond the limits of this state, is its original owner. Such ownership may be transferred in the same manner as personal property, and is entitled to the same protection by suits at law; and any court of competent jurisdiction may restrain by injunction, and award damages for, any use of trade marks or names in violation of this title.

Sec. 4482. Every person who willfully forges or counterfeits, or procures to be forged or counterfeited, any trade mark usually affixed by any person or by any association or

union of workmen to his goods, which has been recorded in the office of the secretary of state, with intent to pass off any goods to which such forged or counterfeited trade mark is affixed, or intended to be affixed, as the goods of such person or such association or union of workmen, is guilty of a misdemeanor.

Sec. 4483. Every person who sells, or keeps for sale, any goods upon or to which any counterfeited trade mark has been affixed, after such trade mark has been recorded in the office of the secretary of state, intending to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor.

Sec. 4484. The phrases "forged trade mark" and "counterfeited trade mark," or their equivalents, as used in this chapter, include every alteration or imitation of any trade mark so resembling the original as to be likely to deceive.

Sec. 4485. The phrase "trade mark," as used in the three preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, or by any association or union of workmen, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, or by such association or union of workmen, other than any name, word or expression generally denoting any goods to be of some particular class or description.

Sec. 4486. Every person who has or uses any cask, bottle, vessel, case, cover, label, or other thing bearing or having in any way connected with it the duly filed trade mark or name of another, for the purpose of disposing with intent to deceive or defraud, or any article other than that which such cask, bottle, vessel, case, cover, label, or other thing originally contained or was connected with by the owner of such trade mark or name, is guilty of a misdemeanor.

Chap. 119, Laws Utah 1901, is "An act in relation to the brands

and property marks of bottles, kegs, etc., and tools, etc., and for the protection of owners thereof, and providing a penalty for the violation hereof."

VERMONT.

LAWS OF 1898.

Public Act No. 158.

An act to provide for the registration of trade marks.

Section 1. Any person, partnership or corporation may adopt as and for his or their trade mark or trade name any particular name, term, design, device, label, stamp or form of advertisement, not previously owned or adopted by any other person, partnership or corporation, to designate or distinguish any goods, wares or merchandise by him or them manufactured or prepared, and may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or *fac similes* thereof, with the said secretary; and shall also file therewith an accurate description of such name, term, design or device, label, stamp or form of advertisement, verified under oath by the person or some officer of the partnership or corporation by whom it is filed.

There shall be paid for such filing the fee of two dollars.

Said secretary shall deliver to such person, partnership or corporation so filing the same, a duly attested certificate of the record of the same, for which he shall receive the fee of two dollars. Such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such trade mark or trade name. No name, term, design, device, label, stamp or form of advertisement shall be recorded that in any way resembles or would be reasonably mistaken for a name, term, design, device, label, stamp or form of advertisement already on record.

Sec. 2. The secretary of state is authorized to make rules

and regulations and prescribe forms for the filing of names, terms, designs, devices, labels, stamps and forms of advertisement under the provisions of this act.

Sec. 3. Every person who, without authority from the owner of a trade mark or trade name adopted and recorded as aforesaid, shall knowingly and willfully make or sell any representation, likeness, similitude, copy, imitation or counterfeit of such trade mark or trade name, and every person who, without authority from such owner, shall affix, impress or use such trade mark or trade name upon any goods, wares or merchandise shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both said fine and imprisonment.

Sec. 4. Every person who shall knowingly and willfully sell or keep for sale any goods upon which or in connection with which shall be affixed any forgery, imitation or counterfeit of a trade mark or trade name adopted and recorded as aforesaid, and intended to represent the said goods as the genuine goods of any other person, shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Sec. 5. Every person who shall, with intent to defraud any other person, partnership or corporation, knowingly affix or cause to be affixed to or upon any package or bottle containing any goods, wares or merchandise any name, term, design, device, label, stamp or form of advertisement, which shall designate such goods, wares or merchandise, either wholly or in part by a word or words, or by general design, which shall be wholly or in part the same either in appearance to the eye, or in sound to the ear, as the word or words or the general design of any trade mark or trade name adopted and recorded, as provided in this act, or who shall knowingly sell, or expose for sale, any such package or bottle with any such imitating or

counterfeit name, term, design, device, label, stamp or form of advertisement, may also be punished by imprisonment not exceeding one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Sec. 6. The owner of any trade mark or trade name adopted and recorded as provided in section 1 of this act may proceed by suit to enjoin any and all other persons, partnerships or corporations from the manufacture, use or sale, without the authority of said owner, of all likenesses, similitudes, copies, imitations or counterfeits thereof, and also from selling or exposing for sale any and all goods, compounds, or preparations to or with which such unauthorized likenesses, similitudes, copies, imitations or counterfeits shall be affixed or connected. And all courts having jurisdiction in equity may grant injunctions to restrain and enjoin such manufacture, use, sale and exposure for sale, and may award to the complainant in such suit such a sum of money as shall be just and reasonable compensation for the damage to the reputation of the complainant's genuine goods, compounds or preparations by reason of such wrongful manufacture, use, sale or exposure for sale; and may also require the defendant to pay to the complainant in such suit a sum equal to the amount which the complainant would have received for the same quantity of genuine goods, compounds or preparations, and may also order that all such likenesses, similitudes, copies, imitations or counterfeits in the possession of or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed.

Approved November 22, 1898.

VIRGINIA.

SECTION 1906D, PAGE 225, SUPPLEMENT (1898) TO CODE
(ACTS 1897-98, CH. 33).

To protect labels, trade marks, terms, etc., of labor associations and organizations.

1. That whenever any person or any association or union of workmen has heretofore adopted or used or shall hereafter adopt or use any label, trade mark, term, design, device or form of advertising for the purpose of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workmen, or by a member or members of such association or union, and has filed and recorded the same as hereinafter provided, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement, or to use, sell, offer for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device, or form of advertisement.

2. Whoever counterfeits or imitates any such label, trade mark, term, design, device, or form of advertisement, or knowingly and with intent to deceive, sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device, or form of advertisement, or knowingly and with intent to deceive, keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which, or on which, any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly and with intent to deceive, knowingly sells or disposes of any goods, wares, merchandise, or other product of labor contained in any box, case, can or package, to which, or

on which, any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, or knowingly and with intent to deceive, keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other products of labor in any box, case, can or package to which, or on which, any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than three months.

3. Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement as provided in section one of this act, may file the same for record in the office of the secretary of the commonwealth by leaving two copies, counterparts or *fac similes* thereof, with said secretary and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated stating that the party so filing or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has a right to the use of the same; that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac simile* or counterparts filed therewith are true and correct. There shall be paid for such filing and recording to the commonwealth a tax of two dollars and fifty cents. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association or

union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade mark, term, design, device or form of advertisement. Said secretary of the commonwealth shall not record for any person, union or association, any label, trade mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association.

4. Any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade mark, term, design, or form of advertisement in the office of the secretary of the commonwealth under the provisions of this act, by making any false or fraudulent representations, or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction and shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding three months.

5. Every such person, association or union adopting or using a label, trade mark, term, design, device or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and all courts of competent jurisdiction shall grant injunction to restrain such manufacture, use, display or sale as may be by the said court deemed just and reasonable, and shall require the defendant to pay to such person, association or union all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that any such counterfeits or imitations in the posses-

sion or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant, to be destroyed.

6. Every person who shall use or display the genuine label, trade mark, term, design, device or form of advertisement of any such person, association or union in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by a fine of not more than one hundred dollars. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union.

7. Any person or persons who shall in any way use the name or seal of any such person, association or union or officer thereof in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars.

Section 906a, pp. 220-222, Supplement (1898) to Code, protects manufacturers, bottlers, and vendors of soda water and other beverages or medicines or other compounds against the unauthorized use or sale of, or defacement of marks upon, their bottles, kegs, siphons, etc., by other persons.

Section 1906c, pp. 223-225, Supplement (1898) to Code, authorizes "timber dealers" to adopt and record a trade-mark, and protects them in its use, and their timber marked with it, and provides penalties for invasion of their rights therein.

WASHINGTON.

BALLINGER'S ANN. CODES & STATUTES, 1897.

Of Trade Marks.

§ 3621. Whenever any person or any association or un-

ion of workmen has heretofore adopted or used, or shall hereafter adopt or use and has filed as hereinafter provided any label, trade mark, term, design, device or form of advertisement, for the purpose of designating, making known or distinguishing any goods, wares, merchandise, or other products of labor, as having been made, manufactured, produced, prepared, packed or put on sale, by such person, or association, or union of workmen, or by a member or members of such association, or union, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate, any counterfeit or imitation of any such label, trade mark, term, device or form of advertisement. [Laws 1897, p. 65, § 1.]

§ 3622. Whoever counterfeits or imitates any such label, trade mark, term, design, device or form of advertisement, or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which, any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more more than one hundred dollars, or by imprisonment for not more than three months. [Laws 1897, p. 65, § 2.]

§ 3623. Every person, association or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement, as provided in section one of this act, may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or *fac similes* thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing, or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac simile* or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of two dollars. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade mark, term, design, device or form of advertisement. Said secretary of state shall not record for any person, union or association any label, trade mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade mark, term, design, device or form of advertisement

theretofore filed by or on behalf of any other person, union or association. [Laws 1897, p. 66, § 3.]

§ 3624. Any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade mark, term, design or form of advertisement in the office of the secretary of state under the provisions of this act, by making any false or fraudulent representations or declarations, verbally or in writing or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by, or on behalf of, the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months. [Laws 1897, p. 67, § 4.]

§ 3625. Every such person, association or union adopting or using a label, trade mark, term, design, device or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale and may award the complainant in any such suit, damages resulting from such manufacture, use, sale or display as may be by the said court deemed just and reasonable; and shall require the defendants to pay to such person, association or union all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause, be delivered to an officer of the court, or to the complainant, to be destroyed. [Laws 1897, p. 67, § 5.]

§ 3626. Every person who shall use or display the genuine label, trade mark, term, design, device or form of advertisement of any such person, association or union in any manner not being authorized so to do by such person, union or associa-

tion, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months, or by fine of not more than one hundred dollars. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union. [Laws 1897, p. 67, § 6.]

§ 3627. Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars. [Laws 1897, p. 68, § 7.]

§ 3628. Any person using the trade mark so adopted and filed by any other person, or any imitation of such trade mark, or any counterfeit thereof; or who shall, in any manner mutilate, deface, destroy or remove such trade mark from any goods, wares, merchandise, article or articles, or from any package or packages containing the same, or from any empty or second hand package which has contained the same or been used therefor, with the intention of using such empty or second hand package, or of the same being used to contain goods, wares, merchandise, article or articles of the same general character as those for which they were first used; and any person who shall use any such empty or second hand package for the purpose aforesaid, without the consent in writing of the person whose trade mark was first applied thereto or placed thereon shall, upon conviction thereof, be fined in any sum not less than one hundred dollars, or by imprisonment for not more than three months, and the goods, wares, merchandise, article or articles, contained in any such second hand package or packages shall be forfeited to the original user of

such package or packages whose trade mark was first applied thereto or placed thereon. The violation of any of the above provisions as to each particular article or package shall be held to be a separate offense. [Laws 1897, p. 68, § 8.]

§ 3629. The word "person," in this act, shall be construed to include a person, co-partnership, corporation, association or union of workingmen. [Laws 1897, p. 68, § 9.]

§ 3630. Sections 3125, 3126, 3127, 3128, 3129 and 3130 of volume 1, Hill's Annotated Statutes and Codes of Washington, and all acts amendatory thereof, be and the same are hereby repealed. [Laws 1897, p. 68.]

This act constitutes chapter 4, tit. 20, in Ballinger's Annotated Codes & Statutes of Washington 1897.

Chapter 38, Laws 1897 (chapter 5, tit. 20, Ballinger's Ann. Codes & Statutes 1897), protects manufacturers, bottlers, and vendors of ale, beer, and other beverages against the unauthorized use or sale or wanton destruction of their casks, barrels, kegs, bottles, or boxes by other persons.

WEST VIRGINIA.

ACTS OF 1901 (REG. SESS.), CH. 5.

An act providing for the protection of union labels and trade marks.

1. Whenever any person, firm or corporation, or any association or union of working men, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement for the use of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale, by such person, firm, corporation or association or union of workingmen, or by a member or members of such association or union, and shall register the same as provided in section three of this act, it shall be unlawful to knowingly counterfeit or imitate such label, trade mark,

term, design, device or form of advertisement, or to knowingly use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement.

2. Whoever so knowingly counterfeits or imitates any such registered label, trade mark, term, design, device or form of advertisement; or knowingly sells, or offers for sale, or in any way utters or circulates any counterfeit or imitation of any such registered label, trade mark, term, design, device or form of advertisement; or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped, or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three months, or by both such fine and imprisonment.

3. Every such person, firm, corporation, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement as provided in section one of this act, shall register the same by filing the same for record in the office of the secretary of state by leaving two copies, counterparts or *fac similes* thereof, with said secretary and by filing therewith a sworn application specifying

the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement, shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing, or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has the right to use the same; that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac similes* or counterparts filed therewith are true and correct. There shall be for such filing and recording a fee of one dollar. Said secretary shall deliver to such person, association, or union, so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, firm, corporation, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificates of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such labels, trade marks, terms, designs, devices or forms of advertisement. Said secretary of state shall not record for any person, union, or association, any label, trade mark, term, design, device or form of advertisement, that would probably be mistaken for any label, trade mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, firm, corporation, union or association. But the said secretary shall file and record under this act any label, trade mark, term, design, device or form of advertisement, which may have been previously filed by any person, firm, corporation or any association or union of workingmen, provided the person, firm, corporation, association or union seeking

to file and record under this act is the same person, firm, corporation, association or union that previously filed or recorded the same label, trade mark, term, design, device or form of advertisement.

4. Any person who shall for himself, or on behalf of any other person, firm, corporation, association or union, procure the filing of any label, trade mark, term, design, or form of advertisement, in the office of the secretary of state under the provisions of this act, by making any known false or fraudulent representations, or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment.

5. Every such person, firm, corporation, association or union adopting or using any such registered label, trade mark, term, design, device or form of advertisement, as aforesaid, may proceed by suit for damages to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and award the complainant in any such suit damages resulting from such manufacture, use, sale or display, as may be by the said court deemed just and reasonable, and shall require the defendants to pay such person, association or union, all profits derived from such wrongful manufacture, use, sale or display; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant, to be destroyed.

6. Every person, firm, corporation or union, who shall knowingly use or display the genuine label, trade mark, term, design, device or form of advertisement of any such person, firm, corporation, association or union when registered as aforesaid, in any manner, not being authorized so to do by such person, firm, corporation, association or union, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by a fine of not more than three hundred dollars. In all cases where such association or union is not incorporated suits under this act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union.

7. Any person, firm, corporation, association, or union, who shall in any way knowingly use the name or seal of any such person, firm, corporation, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by a fine of not more than five hundred dollars.

8. Nothing contained in this act shall be construed as affecting or impairing any right or remedy at law or in equity now existing for the protection of any label, trade mark, term, design, device or form of advertisement, whether or not the same is registered under the provisions hereof.

Code of W. Va. (1899) pp. 1141, 1142 (chapter 15 of the Acts of 1897), is designed to protect persons and corporations engaged in manufacturing or selling mineral waters, malt liquors, and other beverages, against the unauthorized use of their bottles by other parties.

WISCONSIN.

GEN. ST. 1898.

Section 1747a. Any person, association or union of workmen which has heretofore adopted or used or shall hereafter adopt or use any label, trade mark, term, design, device or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person, association or union or by a member or members thereof may file the same for record in the office of the secretary of state by leaving two copies, counterparts or *fac similes* thereof with said secretary and by filing therewith a sworn statement specifying the name of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement is to be filed, the class of merchandise and a separate description of the goods to which the same has been or is intended to be appropriated, that the party on whose behalf such label, trade mark, term, design, device or form of advertisement is to be filed has the right to the use of the same, and that no other person, firm, association, union or corporation has such right either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the copies, counterparts or *fac similes* filed therewith are correct. The papers so required to be filed shall be recorded in a book kept for that purpose, and there shall be paid the secretary of state for such recording and filing one dollar.

Sec. 1747b. Said secretary shall deliver to the person, association or union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement so many duly attested certificates of the filing and recording of the same as may be desired and shall receive for each such certificate a fee of one dollar. Any such certificate

shall, in all suits and prosecutions arising out of or depending upon any rights claimed under such label, trade mark, term, design, device or form of advertisement, be sufficient proof of the adoption thereof. The secretary of state shall not record any label, trade mark, term, design, device or form of advertisement that may reasonably be mistaken for anything theretofore filed in his office under the provisions of this chapter.

Sec. 1747c. Any person who shall for himself, or on behalf of any other person, association or union, procure the filing of any label, trade mark, term, design, device or form of advertisement under the provisions of the preceding section by making any false or fraudulent representations or declarations, verbally or in writing, or by any other fraudulent means, shall be liable for any damages sustained in consequence thereof, to be recovered by or on behalf of the party injured thereby, and shall also be punished as provided by law.

Sec. 1747d. The secretary of state shall, on application by any person or firm domiciled in this state, or by any corporation created under the laws thereof and engaged in the manufacture or sale of ale, porter, lager beer, soda water, mineral water, or other beverages put up in packages, record in a book kept for that purpose a description of the names, brand or trade mark used by such person, firm or corporation for marking the casks, barrels, kegs, bottles, jugs, fountains, boxes or other packages containing such beverage. Before any such record shall be made there shall be paid said secretary a fee of five dollars for each and every such description of name, brand or trade mark which he is requested to have recorded. Nothing elsewhere in this chapter contained is intended to be contrary to or to control or modify the provisions of this section.

Sec. 1747dd. Every person, association or union adopting or using a label, trade mark, term, design, device or form

of advertisement as provided in section 1747a, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and may award the complainant damages resulting from such manufacture, use, sale or display as may be deemed just and reasonable by said court, including all profits derived from such wrongful manufacture, use, display or sale; such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant be delivered to any officer of the court to be destroyed. In case such association or union is not incorporated, such actions may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union. [Laws of 1901, c. 140.]

Sec. 4463. Any person who shall knowingly and willfully forge or counterfeit or cause or procure to be counterfeited upon any goods, wares or merchandise the private stamp or label of any mechanic or manufacturer, with intent to defraud the purchaser or manufacturer of any goods, wares or merchandise whatsoever, shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

Sec. 4463a. Every person who shall knowingly and willfully use or display the genuine label, name or seal, trademark, term, design, device or form of advertisement of any person, association or union in any manner, or in or about the sale of goods or merchandise not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months or by a fine of not more than one hundred dollars. [Laws of 1901, c. 201.]

Sec. 4464. Any person who shall counterfeit or imitate any

label, trade mark, term, design, device or form of advertisement adopted or used by any other person, or any association or union of workmen for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person, association or union, or by a member or members of such association or union, or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement, or knowingly uses any such counterfeit or imitation, or knowingly sells or disposes of, or keeps or has in his possession, with the intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which any such counterfeit or imitation is attached or affixed, or on which the same is printed, painted, stamped or impressed, or knowingly sells or disposes of, or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which, or on which, any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by imprisonment in the county jail not more than six months nor less than ten days, or by fine not exceeding one hundred dollars nor less than ten dollars, or by both such fine and imprisonment. Any person who shall, for himself or on behalf of another, or of any association or union, procure the filing and recording in the office of the secretary of state of any label, trade mark, term, design, device or form of advertisement by making any false or fraudulent representations or declarations, verbally or in writing, or by any other fraudulent means, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars, or by both such fine and imprisonment.

Section 4442b provides punishment for wantonly obliterating or injuring names, marks, or brands upon casks, barrels, bottles, jugs, etc., used by persons or firms domiciled in the state, or by corporations created under the laws thereof, and engaged in the manufacture or sale of beverages.

Chapter 360, Laws 1901, "An act to provide for registration of trade marks and other marks of ownership and to prevent the unlawful use and disposal of articles marked therewith," seems to apply solely to such marks when used and for use on "cans, tubs, firkins, boxes, bottles, casks, barrels, kegs, cartons, tanks, fountains, vessels or containers."

WYOMING.

REVISED STATUTES (LAWS 1899, CH. 5) 1899.

Sec. 2526. Any person, association or union may adopt a label, trade mark, stamp or form of advertisement not previously owned or adopted by any other person, association or union, and may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or *fac similes* thereof, with said secretary; and shall file therewith a certificate specifying the name or names of the person, association or union so filing such label, trade mark, stamp or form of advertisement, his or its residence, location or place of business, the class of merchandise and the particular description of goods comprised in such class to which it has been or is intended to be appropriated, and the length of time, if any, during which it has been in use. Such certificate shall be accompanied by a written declaration, verified under oath by the person or some officer of the association or union by whom it is filed, to the effect that the party so filing such label, trade mark, stamp or form of advertisement has a right to the use of the same, and that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac similes*, copies or counterparts filed therewith are true and correct.

There shall be paid for such filing the fee of five dollars. Said secretary shall deliver to such person, association or union so filing the same a duly attested certificate of the record of the same, for which he shall receive the fee of five dollars. Such certificate of record, shall in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, stamp, trade mark or form of advertisement. No label, trade mark, stamp or form of advertisement shall be recorded that would reasonably be mistaken for a label, trade mark, stamp or form of advertisement already on record.

Sec. 2527. The secretary of state is authorized to make rules and regulations, and prescribe forms for the filing of labels, trade marks and forms of advertisement under the provisions of this act.

Sec. 2528. The owner of any such label, trade mark, stamp or form of advertisement recorded as provided in section one of this act, may proceed by suit to enjoin the manufacture, use or sale of any such counterfeits or imitations, and all courts having jurisdiction thereof to grant injunctions to restrain such manufacture, use or sale, and will award the complainant in such suit such damages resulting from such wrongful manufacture, use or sale as may by said court be deemed just and reasonable, and shall require the defendant to pay to such person, association or union the profits derived from such wrongful manufacture, use or sale; and such court may also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer of such association or union, on behalf of and for the use of such association or union, and every member of such association or union shall be liable for costs in any such proceedings.

Sec. 2529. Every person who, without authority from the owner of a label, trade mark, stamp or form of advertisement recorded as aforesaid, shall make or use any counterfeit or imitation of such label, trade mark, stamp or form of advertisement, knowing the same to be counterfeit or imitation, and every person who, without authority from such owner, shall affix, impress or use such label, trade mark, stamp or form of advertisement upon any goods shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Sec. 2530. Every person who shall sell goods upon which such label, trade mark, stamp or form of advertisement recorded as aforesaid, or any counterfeit or imitation thereof, shall be unlawfully impressed, affixed or used, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment, unless such person shall show that at the time such goods came into his possession he did not know that the impression, affixing or use of such label, trade mark, stamp or form of advertisement was unlawful.

Sec. 2531. In any suit or prosecution under the provisions of this act the defendant may show that he or it was the owner of such label, trade mark or form of advertisement, prior to its being filed under the provisions of this act, and that it has been filed wrongfully or without right by some other person, association or union.

Sec. 2532. This act shall not be construed as to apply to brands, marks or tags on live stock.

APPENDIX IV.

TREATIES, CONVENTIONS, AND DECLARATIONS BETWEEN THE UNITED STATES AND OTHER SINGLE POWERS.*

TREATIES WITH THE VARIOUS NATIONS.

RUSSIA.

An article respecting trade-marks additional to the treaty of navigation and commerce of December 6-18, 1832, with Russia was concluded at Washington, January 27, 1868; proclaimed October 15, 1868. The additional article other than the preamble and provision for termination is as follows:

The high contracting parties desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise to show its origin and quality shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade-marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other must be lodged exclusively, to wit, the marks of citizens of the United States in the department of manufactures and inland commerce at St. Petersburg, and the marks of Russian subjects at the patent office in Washington.

A declaration regarding the above article was signed March 28, 1874, proclaimed November 24, 1874. It is as follows:

The government of the United States of America and the government of his majesty the emperor of all the Russias, having

* From Report of Commissioners to Revise Statutes Relating to Patents, etc., Government Printing Office, 1900.

recognized the necessity of defining and rendering more efficacious the stipulations contained in the additional article of the 15th-27th January, 1868, to the treaty of commerce and navigation concluded between the United States of America and Russia on the 6th-18th December, 1832, the undersigned, duly authorized to that effect, have agreed upon the following arrangements:

Article 1. With regard to marks of goods or of their packages, and also with regard to marks of manufacture and trade, the citizens of the United States of America shall enjoy in Russia, and Russian subjects shall enjoy in the United States, the same protection as native citizens.

Art. 2. The preceding article, which shall come immediately into operation, shall be considered as forming an integral part of the treaty of the 6th-18th December, 1832, and shall have the same force and duration as the said treaty.

The declaration is an addition only to the original article. It makes certain the fact that citizens of the United States shall enjoy the same protection as Russian subjects, but it does not change the obligation of either party to prohibit false marking, etc., as stated in the original article.

This treaty requires the enactment of some law by the congress of the United States in distinction from any state legislation for the prohibition and suppression of the counterfeiting of trade-marks of Russian subjects in the United States. It requires at least some national law, to which the subjects of Russia can resort, more far-reaching than the law of 1881.

This treaty requires the Russian subject to lodge his trade-mark in the patent office at Washington, but the commissioner of patents, as the trade-mark law is at present construed, does not consider that he has authority to register Russian trade-marks, unless they are such marks as could be registered by citizens of the United States.

It is of advantage to the citizens of the United States that a rule corresponding to the treaty should prevail. Our commerce has become so extensive abroad that our marks should have full protection everywhere in order to reap the full

advantage of such trade. For example, single names such as "Sapolio," "Listerine," and other advertised marks here are not trade-marks under the laws of many of the countries of Europe, and therefore these articles can not be exported there with the assurance of protection against infringement, and if export is desired some other trade-mark must be adopted. We can well receive and record the few Russian marks that will be offered, such as they are, and without making them conform to our rules. "

BELGIUM.

In the same year that the agreement was concluded with Russia an additional article to the treaty of commerce and navigation of July 17, 1858, concerning trade-marks with Belgium, was concluded December 20, 1868; proclaimed July 30, 1869. The additional article is as follows:

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade-marks in which the citizens of one of the two countries may wish to secure the right of property in the other must be lodged, to wit: The marks of citizens of the United States at Brussels in the office of the clerk of the tribunal of commerce; and the marks of Belgian citizens at the patent office in Washington.

It is understood that if a trade-mark has become public property in the country of its origin it shall be equally free to all in the other country.

The treaty to which this was an additional article was abrogated, and a new "treaty of commerce, navigation, and trade-marks" with Belgium was concluded March 8, 1875, in which was inserted an article XV in substantially the same language as above. National, as distinguished from state,

trade-marks are clearly pointed out by the last paragraph of the article. It is necessary for the statute to decide what trade-marks have become public property in all the states of the United States; e. g., "Matsoon" has been held in New York state to be a good trade-mark, and the United States circuit court in Chicago, administering the common law of Illinois, has held it to be public property. This treaty seems to be still in force, yet a separate convention with Belgium concerning trade-marks only was concluded April 7, 1884; proclaimed July 9, 1884. It is as follows:

The president of the United States of America and his majesty the king of the Belgians being desirous of securing reciprocal protection for the trade-marks and trade-labels of their respective citizens or subjects within the dominions or territories of the other country, have resolved to conclude a convention for that purpose, and have appointed as their plenipotentiaries: * * *

Article 1. Citizens of the United States in Belgium and Belgian citizens in the United States of America shall enjoy, as regards trade-marks and trade-labels, the same protection as native citizens, without prejudice to any privilege or advantage that is or may hereafter be granted to the citizens of the most favored nation.

Art. 2. In order to secure to their marks the protection provided for by the foregoing article, the citizens of each one of the contracting parties shall be required to fulfill the law and regulations of the other. (Appendix, chap. XVIII., sec. 2.)

If the treaty of 1875 is in force, the same observations must be made in regard to it as were made in regard to the treaty with Russia. They may also be applied, because the convention of 1884 contains the most-favored-nation clause.

In either case the treaty refers to the United States of America and its laws and not to local laws.

FRANCE.

In 1869 a separate convention concerning trade-marks was concluded with France April 16, 1869; proclaimed July 6, 1869. It is as follows:

The United States of America and his majesty the emperor of

the French, desiring to secure in their respective territories a guaranty of property in trade-marks, have resolved to conclude a special convention for this purpose, and have named as their plenipotentiaries: * * *

Article I. Every reproduction in one of the two countries of trade-marks affixed in the other to certain merchandise to prove its origin and quality is forbidden, and shall give ground for an action for damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven, just as if the plaintiff were a subject or citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in France, or of French subjects in the territory of the United States, can not exist for a longer period than that fixed by the law of the country for its own citizens.

If the trade-mark has become public property in the country of its origin, it shall be equally free to all in the other country.

Art. II. If the owners of trade-marks residing in either of the two countries wish to secure their rights in the other country they must deposit duplicate copies of those marks in the patent office at Washington, and in the clerk's office of the tribunal of commerce of the Seine at Paris.

In this case the language of the prior treaties is not used, and the citizen of France is secured such rights only as if he were a citizen of the United States.

French citizens are to deposit duplicate copies of their marks in the patent office at Washington. Under the present law as at present construed they cannot deposit them unless they are such marks as would be registrable to citizens of the United States.

AUSTRIA-HUNGARY.

In 1871 a convention with Austria-Hungary, relative to trade-marks alone, was concluded November 25, 1871; ratifications exchanged at Vienna April 22, 1872; proclaimed June 1, 1872. It is as follows:

The United States of America and his majesty the emperor of Austria, king of Bohemia, etc., and apostolic king of Hungary, desiring to secure in their respective territories a guarantee of proper-

ty in trade-marks, have resolved to conclude a special convention for this purpose, and have named as their plenipotentiaries: * * *

Article I. Every reproduction of trade-marks which in the countries or territories of the one of the contracting parties are affixed to certain merchandise to prove its origin and quality is forbidden in the countries or territories of the other of the contracting parties, and shall give to the injured party ground for such action or proceedings to prevent such reproduction, and to recover damages for the same, as may be authorized by the laws of the country in which the counterfeit is proven, just as if the plaintiff were a citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in the Austro-Hungarian empire or of citizens of the Austro-Hungarian monarchy in the territory of the United States cannot exist for a longer period than that fixed by the law of the country for its own citizens. If the trade-mark has become public property in the country of its origin, it shall be equally free to all in the countries or territories of the other of the two contracting parties.

Art. II. If the owners of trade-marks residing in the countries or territories of the one of the contracting parties, wish to secure their rights in the countries or territories of the other of the contracting parties, they must deposit duplicate copies of those marks in the patent office at Washington and in the chamber of commerce and trade in Vienna and Pesth.

The language of this convention is very similar to that of the declaration with Russia, and the same observation may be made in regard to the same. It is also similar to that of the treaty with Belgium, 1875, in that the trade-mark is to become public property in both countries at the same time, and the remarks there made as to the necessity of national control, drawn from the language, apply here also.

GERMANY.

In 1871 a convention was entered into with the German empire. It is entitled in the collection of treaties and conventions published by the United States, "Convention Respecting Consuls and Trade-Marks." Concluded December 11, 1871: proclaimed June 1, 1872. The convention is

much broader than the title indicates, and has but one article in eighteen on trade-marks. It is:

Art. XVII. With regard to the marks or labels of goods, or of their packages, and also with regard to patterns and marks of manufacture and trade, the citizens of Germany shall enjoy in the United States of America, and American citizens shall enjoy in Germany, the same protection as native citizens.

The present trade-mark statute seems to satisfy this treaty; but it seems hardly just that the Germans should be relegated to the protection offered in forty-five possible ways by forty-five different states, when the citizens of the United States need look at but one law, viz., that of the German empire. This remark is applicable to all the treaties granting reciprocal rights.

GREAT BRITAIN:

In 1877 a declaration respecting trade-marks was concluded between Great Britain and the United States, October 24, 1877; ratification advised by senate May 22, 1878; ratified by president May 25, 1878; proclaimed July 17, 1878.

The government of the United States of America and the government of her majesty the queen of the United Kingdom of Great Britain and Ireland, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The subjects or citizens of each of the contracting parties shall have, in the dominion and possessions of the other, the same rights as belong to native subjects or citizens, or as are now granted or may hereafter be granted to the subjects and citizens of the most-favored nation, in everything relating to property in trade-marks and trade-labels.

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

This declaration, except so far as expanded by the most-favored-nation clause, is satisfied by the present trade-mark law of 1881. It is to be noted that the language would seem

to imply that citizens of the United States can register in Great Britain and subjects of the queen of Great Britain can register in the United States only what are recognized as good trade-marks in the country where registration is sought. It may happen, therefore, that a citizen of the United States may have a perfectly good trade-mark in the United States, registered under the law of 1881, and still not be able to register the same mark in Great Britain, if some other American or some subject of the queen applies first to register the United States registered mark in England, since the English law grants the registration to the first applicant. This would not be done in the United States. The first user in Great Britain would be given the registration over a subsequent adopter here.

The treaty seems to be more than satisfied by the act of 1881.

Does not fulfilling formalities mean the mere compliance with the forms for registration and not compliance with the definition of a trade-mark?

BRAZIL.

An agreement concerning trade-marks with Brazil was concluded September 24, 1878; proclaimed June 17, 1879.

The agreement recites:

The government of the United States of America and the government of his majesty the emperor of Brazil, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The citizens or subjects of the two high contracting parties shall have in the dominions and possessions of the other the same rights as belong to native citizens or subjects in everything relating to property in marks of manufacture and trade.

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

This agreement is satisfied by the present trade-mark law of 1881.

SERBIA.

A convention for facilitating and developing commercial relations with Serbia was concluded at Belgrade, October 14, 1881; proclaimed December 27, 1882, in which was included an article as follows:

Art. XII. The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise to show its origin and quality shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured parties, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade-marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other must be registered exclusively, to wit, the marks of citizens of the United States in the tribunal of commerce at Belgrade and the marks of Serbian subjects in the patent office at Washington, subject to the conditions and restrictions prescribed by the laws and regulations of the country in which the trade-marks are registered.

This seems to be a copy of the agreement with Russia, 1868, except that the marks of the citizens of the United States are to be registered in "the tribunal of commerce at Belgrade," and the addition of the clause, "subject to the conditions and restrictions prescribed by the laws and regulations of the country in which the trade-marks are registered." The remarks made in regard to the Russian agreement apply here also, except so far as modified by the last clause of the last sentence. Whether we give more than we receive depends upon the meaning of the undefined words in the law of 1881, "a legal trade-mark." What Serbia protects is stated in Appendix to be:

Every mark serving to distinguish products of industry or articles of commerce from similar products or articles is considered a trade-mark.

No person can enjoy the exclusive right to a mark which is in general use in commerce, or which consists of a single letter, figure, or word. The reproduction of the national arms as a trade-mark

is as a rule interdicted. Marks which have an immoral character, or might be prejudicial to public order, cannot be admitted to registration.

ITALY.

A declaration for the reciprocal protection of marks of manufacture and trade with Italy was concluded June 1, 1882; proclaimed March 19, 1884. It is as follows:

The government of the United States of America and the government of his majesty the king of Italy, wishing to provide for the reciprocal protection of the marks of manufacture and trade, have agreed as follows:

The citizens of each of the high contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as belong to native citizens, or as are now granted or may hereafter be granted to the subjects or citizens of the most favored nation, in everything relating to property in trade-marks and trade-labels.

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

This declaration is in substantially the same form as that with Great Britain, and the remarks made as to that declaration are also applicable here.

SPAIN.

A convention concerning trade-marks with Spain was concluded June 19, 1882; proclaimed April 19, 1883. It is as follows:

The president of the United States of America and his majesty the king of Spain, being desirous of securing reciprocal protection for the trade-marks and manufactured articles of their respective citizens or subjects within the dominions or territories of the other country, have resolved to conclude a convention for that purpose, and have appointed as their plenipotentiaries: * * *

Article I. The citizens and subjects of each of the two contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as the natives of the country in everything relating to the ownership of trade-marks, industrial designs or models, or of manufactures of any kind.

Art. V. Persons desiring to secure the aforesaid protection shall be obliged to comply with the formalities required by the laws of the respective countries.

The convention is given for the better understanding of the diplomatic history of our relations with foreign nations on the subjects being considered.

DENMARK.

A convention relating to trade-marks with Denmark was concluded June 15, 1892; proclaimed October 12, 1892. It is as follows:

With a view to secure for the manufacturers in the United States of America and those in Denmark the reciprocal protection of their trade-marks and trade-labels, the undersigned, duly authorized to that effect, have agreed on the following dispositions:

Article I. The subjects or citizens of each of the high contracting parties shall in the dominions and possessions of the other have the same rights as belong to native subjects or citizens, in everything relating to trade-marks and trade-labels of every kind.

Provided, always, that in the United States the subjects of Denmark, and in Denmark the citizens of the United States of America, cannot enjoy these rights to a greater extent or for a longer period of time than in their native country.

Art. II. Any person in either country desiring protection of his trade-mark in the dominions of the other must fulfill the formalities required by the law of the latter, but no person being a subject or citizen of one of the contracting states shall be entitled to claim protection in the other by virtue of the provisions of this convention, unless he shall have first secured protection in his own country in accordance with the laws thereof.

JAPAN.

A treaty of commerce and navigation between the United States of America and empire of Japan was concluded November 22, 1894; proclaimed March 21, 1895. This treaty contained an article on trade-marks, joined with patents and designs, as follows:

Art. XVI. The citizens or subjects of each of the high contracting parties shall enjoy in the territories of the other the same pro-

tection as native citizens or subjects in regard to patents, trade-marks, and designs, upon fulfillment of the formalities prescribed by law.

This article was by special convention concluded January 13, 1897; proclaimed March 9, 1897, and made immediately operative:

The president of the United States of America and his majesty the emperor of Japan, being desirous of securing immediate reciprocal protection for patents, trade-marks, and designs, have resolved to conclude a convention for that purpose, and have appointed as their plenipotentiaries: * * *

Article XVI. of the treaty of commerce and navigation between the United States of America and Japan, concluded at Washington on the twenty-fourth day, the eleventh month, the twenty-seventh year of Meiji, corresponding to the twenty-second day of November, eighteen hundred and ninety-four of the Christian era, shall have full force and effect from the date of the exchange of ratifications of this convention.

**CONVENTION AND FINAL PROTOCOL BETWEEN THE
UNITED STATES AND MANY OF THE NATIONS FOR
THE PROTECTION OF INDUSTRIAL PROPERTY.**

Concluded at Paris, March 20, 1883.

Exchange of Ratifications by Signatory Powers, June 6, 1884.

Adhesion to the Convention advised by the Senate, March 2, 1887.

Ratified by the President, March 29, 1887.

Accession of the United States to the Union announced by the Minister Resident and Consul General of the United States at Berne to the Federal Council of Switzerland, May 30, 1887.

Proclaimed June 11, 1887.

The following are articles especially relating to trade or commercial marks:

* * * * *

Article II. The subjects or citizens of each of the contracting states shall enjoy, in all the other states of the Union, so far as concerns patents for inventions, trade or commercial marks, and the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord to subjects or citizens. In consequence they shall have the same protection as these latter, and the same legal recourse against all infringements of their rights, under reserve of complying with the formalities and conditions imposed upon subjects or citizens by the domestic legislation of each state.

Article III. Are assimilated to the subjects or citizens of the contracting states, the subjects or citizens of states, not forming part of the Union, who are domiciled or have industrial or commercial establishments upon the territory of one of the states of the Union.

Article IV. Any one who shall have regularly deposited an application for a patent of invention, of an industrial

model or design, of a trade or commercial mark, in one of the contracting states, shall enjoy for the purpose of making the deposit in the other states, and under reserve of the rights of third parties, a right of priority during the periods hereinafter determined. In consequence, the deposit subsequently made in one of the other states of the Union before the expiration of these periods cannot be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working by a third party, by the sale of copies of the design or model, by the employment of the mark. The periods of priority above-mentioned shall be six months for patents of invention and three months for designs or industrial models, as well as for trade or commercial marks. They shall be augmented by one month for countries beyond the seas.

* * * * *

Article VI. Every trade or commercial mark regularly deposited in the country of origin shall be admitted to deposit and so protected in all the other countries of the Union. Shall be considered as country of origin, the country where the depositor has his principal establishment. If this principal establishment is not situated in one of the countries of the Union, shall be considered as country of origin that to which the depositor belongs. The deposit may be refused, if the object, for which it is asked, is considered contrary to morals and to public order.

Article VII. The nature of the production upon which the trade or commercial mark is to be affixed cannot in any case be an obstacle to the deposit of the mark.

Article VIII. The commercial name shall be protected in all the countries of the Union without obligation of deposit, whether it forms part or not, of a trade or commercial mark.

Article IX. Every production bearing, unlawfully, a trade or commercial mark, or a commercial name, may be seized

upon importation into those of the states of the Union in which such mark or such commercial name has a right to legal protection. The seizure shall take place either at the instance of the public prosecutor or of the interested party, conformably to the domestic legislation of each state.

Article X. The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention. Is reputed interested party every manufacturer or trader engaged in the manufacture or sale of this production when established in the locality falsely indicated as the place of export.

Article XI. The high contracting parties engage between themselves to accord a temporary protection to patentable inventions, to industrial designs or models as well as to trade or commercial marks for the productions which may figure at official or officially recognized international exhibitions.

Article XII. Each one of the high contracting parties engages to establish a special service of industrial property, and a central depot, for giving information to the public, concerning patents of invention, industrial designs or models and trade or commercial marks.

Article XIII. An international office shall be organized under the title of "International Bureau of the Union for the Protection of Industrial Property." This bureau, the cost of which shall be supported by the governments of all the contracting states, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its supervision. Its powers shall be determined by common accord between the state of the Union.

Final Protocol. * * *

4. Paragraph 1 of article 6 is to be understood in the sense that no trade or commercial mark shall be excluded from

protection, in one of the states of the Union, by the mere fact that it may not satisfy, in respect to the signs composing it, the conditions of the laws of this state, provided that it does satisfy, in this regard, the laws of the country of origin, and that it has been in this latter country duly deposited. Saving this exception which concerns only the form of the mark, and under reservation of the provisions of the other articles of the convention, the domestic legislation of each of the states shall receive its due application. In order to avoid all misinterpretation, it is understood that the use of public armorial bearings and decorations may be considered contrary to public order in the sense of the final paragraph of article 6.

THE INTERNATIONAL UNION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.*

ACTS OF BRUSSELS OF DECEMBER 14, 1900.

We present below the text of the several amended articles of the convention as they now read, after the incorporation of the amendments passed in Brussels. These amendments have now been ratified by the following states, and upon the dates named: Belgium, Dec. 10, 1901; Denmark, Oct. 10, 1901; United States, May 3, 1901; France, May 23, 1902; Great Britain, Dec. 6, 1901; Italy, Dec. 12, 1901; Japan, April 21, 1902; Norway, June 5, 1902; Netherlands, June 10, 1902; Portugal, Nov. 5, 1901; Sweden, June 5, 1902; Switzerland, Aug. 5, 1901; and Tunis, May 23, 1902.

In several countries, Belgium, France, Italy, Netherlands, Portugal, Switzerland and Tunis, the conventional agreements are applicable from the very fact that the amendments enter into force and effect, no local legislation being required. In other countries it has been necessary to pass special acts

* By permission from Patent and Trade-Mark Review, Vol. 1, pp. 245-247.

in order to give legal effect to the amendments, and the following states have passed such laws to secure the application of the amendments, which, amongst other things, provide for a term of priority of twelve months for filing applications for patents: Denmark (Law of March 29, 1901); Great Britain (Law of August 17, 1901); Japan (Law of February 12, 1902); Norway (Law of March 29, 1902); and Sweden (Ordinance of May 9, 1902). We are advised by the Bureau of the International Union that Brazil, San Domingo, Spain, and Servia have not as yet filed their ratifications of these amendments. It should be noted, however, that the new Spanish patent law affords the same period of priority for filing applications for patents to citizens and subjects of all countries which afford a similar protection to Spanish subjects.

ARTICLES OF THE CONVENTION—AMENDED BY THE ACTS OF
BRUSSELS OF DECEMBER 14, 1900.

Art. 3. Are assimilated to the subjects or citizens of the contracting states, the subjects or citizens of states not forming part of the Union, that are domiciled or have effective and serious industrial or commercial establishments within the territory of one of the states of the Union.

Art. 4. Those who have regularly filed an application for a patent of invention, a design or industrial model, a trade or commercial mark, in one of the contracting states, shall enjoy, for effectuating the filing in the other states, and under reserve of the rights of third parties, a right of priority during the delay determined hereinbelow. In consequence, the subsequent filing in one of the other states of the Union, before the expiration of this delay, may not be invalidated by acts accomplished in the interval, as, notably, by another filing, by the publication of the invention or its exploitation, by putting on sale of examples of the design or model, by the use of the mark. The delay of priority mentioned above

shall be twelve months for patents of invention, and four months for designs or industrial models, also for trade or commercial marks.

Art. 4 *bis*. The patents demanded in the different contracting states by persons admitted to the benefits of the convention, under the terms of articles 2 and 3, shall be independent of patents obtained for the same invention in other states, whether adhering to the Union or not. This disposition will apply to patents existing at the moment of its going into effect. It will be the same in case of the accession of new states for patents existing on one side or the other at the moment of the accession.

* * * * *

Art. 9. All products bearing falsely a trade or commercial mark, or a commercial name, may be seized on importation into those of the states of the Union in which that mark or that commercial name has a right to legal protection. The seizure shall take place at the request either of the public prosecutor or of the interested party in accordance with the interior legislation of each state. In the states where the legislation does not admit of the seizure upon importation, this seizure may be replaced by prohibition of importation. The authorities shall not be required to effect the seizure in case of transit.

Art. 10. The provisions of the preceding article will be applicable to all products bearing falsely, as an indication of origin, the name of a determined locality, when that indication shall be joined to a commercial name, fictitious or assumed, with fraudulent intent. An interested party is deemed to be any producer, manufacturer or merchant, engaged in the production, the manufacture or trading in the product, and established either in the locality falsely indicated as the place of origin, or in the region where that locality is situated.

Art. 10 *bis*. Those within the jurisdiction of the conven-

tion (arts. 2 and 3) shall enjoy in all the states of the Union the protection accorded to natives against unfair competition.

Art. 11. The high contracting parties shall accord, in conformity with the legislation of each country, a temporary protection to patentable inventions, to designs or industrial models, also to trade and commercial marks, for products appearing in international exhibitions, official or officially recognized, organized upon the territory of one of them.

* * * * *

Art. 14. The present convention will be subject to periodical revisions in view of introducing ameliorations of a nature to improve the system of the Union. To this effect conferences will be held successively in one of the contracting states, between the delegates of the said states.

* * * * *

Art. 16. States which have not taken part in the present convention will be admitted to adherence upon their demand. This adhesion will be notified by diplomatic channels to the government of the Swiss Confederation, and by it to all the others. It shall entail complete accession to all the clauses, and admission to all the advantages stipulated by the present convention, and will be effective in one month after the sending of the notification by the Swiss government to the other states, unless a subsequent date shall have been indicated by the adhering state. Upon the signing of the convention concluded, the plenipotentiaries agreed as follows:

* * * * *

PROTOCOL OF CLOSING.

§ bis. The patents in each country shall not be declared void by reason of non-working, except after a minimum delay of three years, to date from the filing of the application in the country in which it is issued, and in cases where the patentee cannot justify the causes of his inaction.

TABLE OF CASES.

[REFERENCES ARE TO PAGES.]

A.

- A. Constable & Co. v. Brewster, 87.
A. Featherstone, Ex parte, 585.
A. F. Pike Mfg. Co. v. Cleveland Stone Co., 361.
Aas v. Benham, 396.
Abbott v. Bakers' & Confectioners' Tea Ass'n, 324.
Adams, In re, 259.
 v. Adams, 222, 238, 241.
 v. Heisel, 2, 3, 72, 131, 369.
Addington v. Cullinane, 558-560.
Adriance, Ex parte, 585.
Ainsworth v. Walmsley, 42, 61, 64, 69, 222, 225, 355.
Air-Brush Mfg. Co. v. Thayer, 111.
Albany Perforated Wrapping-Paper Co. v. John Hoberg Co., 105.
Alden v. Gross, 107, 110.
Alexander v. Henry, 559.
 v. Morse, 472, 520.
Alff v. Radam, 107, 110, 375, 389.
Allan B. Wisley Co. v. G. E. Rouse Soc. Co., 367.
 v. Iowa Soap Co., 206, 385, 450.
Alleghany Fertilizer Co. v. Woodside, 54, 55.
Allegretti v. Allegretti Chocolate Cream Co., 67, 69, 222, 226, 237.
Allegretti Chocolate Cream Co. v. Keller, 69, 413, 417.
 v. Rubel, 69.
American Box Mach. Co. v. Crosman, 574.
American Brewing Co. v. St. Louis Brewing Co., 381, 382, 402.
American Cereal Co. v. Eli Pettijohn Cereal Co., 121, 417, 524.
American Fibre Chamois Co. v. De Lee, 56.
American Grocer Pub. Ass'n v. Grocer Pub. Co., 88, 89, 520, 523.
American Grocery Co. v. Sloan, 70, 71, 362.

[REFERENCES ARE TO PAGES.]

- American Solid Leather Button Co. v. Anthony, 2, 9, 10, 42, 45, 49, 75, 80, 106, 108
- American Tobacco Co. v. Guest, 573.
- American Waltham Watch Co. v. Sandman, 11, 90.
v. United States Watch Co., 11, 90.
- American Wash-Board Co. v. Saginaw Mfg. Co., 110, 148, 151, 153, 400, 530.
- American Wire Weavers' Protective Ass'n, Ex parte, 597.
- Amiable Nancy, The, 559.
- Amoskeag Mfg. Co. v. Garner, 14, 98, 160, 170, 180, 287, 355, 588.
v. Spear, 2, 12, 14, 28, 54, 100, 102, 126, 127, 129, 134-137, 152, 164, 170, 179, 331, 347, 463, 494, 526.
v. Trainer, 2, 6, 9, 13, 46, 54, 103, 126, 154, 319, 320, 326, 330.
- Anheuser-Busch Brewing Ass'n v. Fred Miller Brewing Co., 434.
v. Piza, 401, 437.
- Anti-Adulteration League, Ex parte, 583.
- Apollinaris Brunnen v. Somborn, 360.
- Apollinaris Co. v. Brumler, 382.
v. Norrish, 526.
v. Scherer, 401.
- Armstrong v. Kleinhans, 311.
- Arnheim v. Arnheim, 67.
- Atlantic Milling Co. v. Robinson, 2, 51, 53, 57, 243, 564.
v. Rowland, 564.
- Attorney General v. Eastlake, 179.
- Atwater v. Castner, 118.
- Avery v. Meikle, 2, 4, 12, 13, 29-32, 36, 42, 45, 126-128, 131, 188, 324, 330, 378, 383, 563, 564, 568.
- Ayer v. Rushton, 107, 112, 114.

B.

- B. B. Hill Mfg. Co. v. Sawyer-Boss Mfg. Co., 407.
- Babbitt v. Brown, 108, 111, 369.
- Bagby v. Rivers, 284.
- Bailly v. Nashawannuck Mfg. Co., 71.
- Baker v. Baker, 363, 413, 422, 431, 426.
v. Sanders, 69, 417.
- Baldwin v. Von Micheroux, 270.
- Ball v. Siegel, 112, 131, 519.
- Baltz Brewing Co. v. Kaiserbrauerie, 56.
- Bank of Tennessee v. Horn, 257.

[REFERENCES ARE TO PAGES.]

- Bank of Tomah v. Warren, 193, 279, 339.
Banks v. Gibson, 226.
Barlow v. Scott, 567.
Barnes v. Poirier, 223.
Barnett v. Leuchars, 72, 352, 573.
Barnhart, Ex parte, 598.
Barrows v. Knight, 69, 514.
Barry v. Edmunds, 559.
Barthwick v. Evening Post, 408.
Bass v. Dawber, 570.
Bass, Ratcliff & Gretton v. Feigenspan, 356, 359, 533, 588.
 v. Guggenheimer, 512, 574.
 v. Henry Zeltner Brewing Co., 464.
Batcheller v. Thomson, 236, 238.
Battle v. Finiay, 71, 338, 357, 503.
Beadleston v. Cook Brewing Co., 106, 112.
Beard v. Turner, 568.
Bell v. Josselyn, 507.
 v. Locke, 88, 289, 408, 410.
 v. Midland Ry. Co., 559.
Bell & Bogart Soap Co. v. Petrolia Mfg. Co., 395.
Bellows v. Bellows, 259.
Benkert v. Feder, 565.
Bennett v. McKinley, 111.
Berry v. Bedford, 246.
Bingham School v. Gray, 121, 123, 273, 275, 277, 415.
Bininger v. Wattles, 112, 481.
Birmingham Vinegar Brewery Co. v. Powell, 95, 445, 447, 453.
Blacklock v. Small, 575.
Blackwell v. Armistead, 157.
 v. Crabb, 178.
 v. Dibrell, 172.
 v. Wright, 118, 123, 329.
Blackwell's Durham Tobacco Co. v. McElwee, 180, 189.
Blanchard v. Detroit, L. & L. M. R. Co., 394.
 v. Hill, 18, 516.
Block v. Standard Distilling & Distributing Co., 514, 518.
Bloete v. Simon, 147, 323.
Blofeld v. Payne, 22, 558.
Boardman v. Meriden Britannia Co., 2, 12, 75, 76, 108, 357.
Bolander v. Peterson, 121, 122, 297.
Bolen & Byrne Mfg. Co v. Jonasch, 388.
Bonesteel v. Bonesteel, 508.

[REFERENCES ARE TO PAGES.]

- Booth v. Jarrett, 310.
 Boston Rubber Shoe Co. v. Boston Rubber Co., 294.
 Bovill v. Crate, 525.
 Bowen v. Aubrey, 567.
 Bowles, Ex parte, 597.
 Bowman v. Floyd, 281.
 Bradbury v. Dickens, 87.
 Bradley v. Norton, 29, 259, 327, 522.
 Braham v. Reachin, 348, 440.
 v. Bustard, 326, 446.
 Brass & Iron Works Co. v. Payne, 238.
 Brennan v. Emory-Bird-Thayer Dry Goods Co., 108, 110, 367, 528,
 584, 593.
 Brill v. Singer Mfg. Co., 198.
 Bristol v. Equitable Life Assur. Soc., 394.
 Bronson Co., Ex parte, 582, 589.
 Brooklyn White Lead Co. v. Masury, 16, 100, 122, 244, 337.
 Brower v. Boulton, 173, 582.
 Brown v. Doscher, 132, 340, 523.
 v. Mercer, 466.
 v. Seidel, 335.
 Brown Chemical Co. v. Meyer, 54, 65, 103, 104, 109, 122, 220, 237,
 266, 413, 415, 416.
 v. Stearns, 131.
 Bruce v. Strickland, 234.
 Buchanan v. Carpenter, 568.
 Buck's Stove & Range Co. v. Kiechle, 377.
 Buffalo Pitts Co., Ex parte, 581, 582, 585.
 Bulnois v. Peake, 307.
 Bumpus v. Bumpus, 394.
 Burgess v. Burgess, 14, 121, 277, 325, 326, 446.
 v. Hately, 569, 575.
 v. Hills, 569, 575.
 Burke v. Cassin, 2, 3, 14, 62, 64, 100, 108, 112, 130, 150, 327, 463.
 Burnett v. Phalon, 70, 108, 151, 361, 562, 569, 572.
 Burnham v. Rangeley, 575.
 Burns v. Burns, 525.
 Burt, Ex parte, 585.
 v. Smith, 340, 369, 503.
 Burton v. Stratton, 48, 54, 56, 215, 221, 233.
 Bury v. Bedford, 29, 225, 235, 237, 249, 250.
 Bush v. Harcon, 33.

C.

[REFERENCES ARE TO PAGES.]

- C. F. Simmons Medicine Co. v. Mansfield Drug Co., 37, 110, 125, 188, 193, 500.
 v. Simmons, 389, 394.
- C. O. Burns Co. v. W. F. Burns Co., 525.
- Cady v. Schultz, 2, 3, 36, 104, 118, 273, 274, 307, 366, 405, 527.
- Cahn v. Gottschalk, 49, 57, 106, 185.
- California Fig Syrup Co. v. Frederick Stearns & Co., 111, 452.
 v. Putnam, 113.
 v. Worden, 374.
- California Fruit Growers' Ass'n v. Myer, 440.
- Calladay v. Baird, 320, 321, 332.
- Canal Co. v. Clark, 29.
- Candee v. Deere, 2-4, 104, 105, 117, 121, 122, 126, 127, 131, 136, 148, 156, 165, 244, 334, 435.
- Canham v. Jones, 20, 28, 110, 126, 210, 214.
- Capital City Dairy Co., Ex parte, 589.
- Carbolic Soap Co. v. Thompson, 111, 476, 501.
- Carmichel v. Latimer, 50, 52, 63, 65, 108, 242, 246.
- Carroll v. Ertheiler, 72, 160, 356, 357, 359, 521, 588.
- Carson v. Ury, 141, 143, 144, 351, 383, 507.
- Cartier v. Carlile, 561.
- Castner v. Coffman, 118.
- Caswell v. Davis, 100, 103, 110, 119.
 v. Hazard, 151, 240, 270, 276.
- Cellular Clothing Co. v. Maxton, 455, 457.
- Celluloid Mfg. Co. v. Cellonite Mfg. Co., 59, 71, 215, 291, 326, 362, 392, 401, 404, 517, 523.
 v. Read, 71, 159, 355.
- Centaur Co. v. Heinsfurter, 200, 406.
 v. Hughes Bros. Mfg. Co., 477, 485.
 v. Killenberger, 406.
 v. Link, 463.
 v. Marshall, 200, 380, 455, 519, 525.
 v. Neathery, 200, 407, 478.
 v. Reinecke, 200, 478.
 v. Robinson, 385, 390.
- Chadwick v. Coveil, 30, 33, 107, 224, 252, 500.
- Champlin v. Stoddart, 394.
- Chance v. Sheppard, 87.
- Chancellor, etc., of Oxford University v. Wilmore-Andrews Pub. Co., 452.
- Trade-Marks--54.

[REFERENCES ARE TO PAGES.]

- Chaney v. Hoxie, 51, 239.
Chappell v. Davidson, 569.
Charles E. Hires Co. v. Consumers' Co., 479, 496, 523, 532, 533.
 v. Hires, 420.
Charles S. Higgins Co. v. Amalga Soap Co., 392, 424.
 v. Higgins Soap Co., 276, 287, 392, 413, 415.
Chase v. Mayo, 108.
Chattanooga Medicine Co. v. Thedford, 221, 237.
Cheavin v. Walker, 200.
Chicago City Ry. Co. v. General Electric Co., 511.
Choynski v. Cohen, 100, 108, 307.
Christy v. Murphy, 96, 308.
Chubb v. Griffiths, 572.
Church v. Kresner, 276.
 v. Proctor, 113.
 v. Russ, 36, 160, 356, 374.
Churton v. Douglas, 225, 281.
Cigar-Makers' Protective Union v. Conhalm, 3, 6, 8, 29, 30, 141, 143,
 144, 229.
City of Carlsbad v. Kutnow, 97, 362.
 v. Schultz, 456.
 v. Thackery, 97.
 v. Tibbetts, 381, 518.
Civil Service Supply Ass'n v. Dean, 148, 156, 406.
Clark v. Clark, 14, 24, 29, 324.
Clark Thread Co. v. Armitage, 295, 382, 473, 474.
 v. William Clark Co., 527, 565, 563.
Clayton v. Day, 326.
 v. Stone, 89.
Clemens v. Belford, 123.
Clement v. Maddick, 87, 89.
Cleveland Stone Co. v. Wallace, 262, 381, 463.
Clinton Metallic Paint Co. v. New York Metallic Paint Co., 42, 60,
 107, 112, 117, 130, 519.
Clotworthy v. Schepp, 368.
Clowes v. Hogg, 87.
Coats v. Holbrook, 357, 506, 562, 569.
 v. Merrick Thread Co., 112, 195, 340, 377, 378, 381, 388, 406,
 413, 416, 435, 466.
Cochrane v. McNish, 326.
Coffeen v. Brunton, 27, 463, 519, 559.
Coffman v. Castner, 118, 435.

[REFERENCES ARE TO PAGES.]

- Cohn v. Gottschalk, 392.
 v. People, 145, 147.
 v. Reynolds, 308.
 Cole v. Reynolds, 567.
 Colgan v. Danheiser, 111.
 Colgate v. Adams, 363, 452.
 Colladay v. Baird, 26, 155.
 Collins v. Brown, 23, 134, 154, 505.
 v. Cowen, 5.
 v. Oliver Ames & Sons Corp., 51, 159, 356, 563, 571.
 v. Reeves, 505.
 v. Reynolds Card Mfg. Co., 75, 78.
 v. Walker, 569.
 Collins Chemical & Mfg. Co. v. Capitol City Mfg. Co., 514.
 Collinsplatt v. Finlayson, 339, 341, 349.
 Colman v. Crump, 14, 85, 151, 158, 162, 337, 347, 351, 463, 494, 507.
 Colonial Dames of America v. Colonial Dames of New York, 303.
 Colton v. Thomas, 307, 324, 332.
 Columbia Mill Co. v. Alcorn, 2, 6, 7, 54, 103, 106, 114, 116, 118, 119,
 148, 149, 151, 339, 435, 452.
 Compagnie Laferme v. Hendrick, 574.
 Comstock v. Moore, 108.
 Condy v. Taylor, 401.
 Congress & Empire Spring Co. v. High Rock Congress Spring Co.,
 2, 5, 12, 30, 52, 96, 163, 164, 221, 226, 243, 526.
 Connell v. Reed, 116, 384, 435.
 Conrad v. Joseph Uhrig Brewing Co., 134, 135, 377, 559.
 Consolidated Fruit Jar Co. v. Thomas, 327, 337, 341.
 Consolidated Rubber Works. Ex parte, 588.
 Constable v. Brewster, 87.
 Continental Ins. Co. v. Continental Fire Ass'n, 299, 436.
 Cook v. Ross, 406, 481.
 v. Starkweather, 46, 344.
 Cope v. Evans, 152.
 Corbin v. Gould, 54, 115, 466.
 Corning. Ex parte, 586.
 Corns v. Griffiths, 87.
 Corwin v. Daly, 23, 100, 108, 112, 114, 230, 355.
 Cory v. Gertken, 572.
 Cotton v. Gillard, 229.
 Covell v. Chadwick, 252.
 Cowan v. Fairbrother, 234.
 Crawford v. Laus, 307.

[REFERENCES ARE TO PAGES.]

Crawshay v. Thompson, 17, 516, 559.
 Cream of Wheat Co., Ex parte, 587.
 Crescent Mfg. Co., Ex parte, 589.
 Croft v. Day, 35, 276, 326, 374, 377, 381, 383, 416, 463.
 Cross, Ex parte, 590.
 Cuervo v. Henkell, 351.
 v. Landauer, 221, 231, 238, 327, 340, 347, 351, 526.
 Curtis v. Bryan, 14.
 Cutter v. Gudebrod, 65, 237, 245.

D.

Dadirrian v. Gullian, 528.
 v. Yacubian, 111, 113, 114, 454.
 Dale v. Smithson, 347.
 Dalsimer, Ex parte, 585.
 Daht v. Head, 221, 223, 227.
 Dausman & Drummond Tobacco Co. v. Ruffner, 130.
 Davies v. Clough, 394.
 Davis v. Davis, 5, 131, 523.
 v. Kendall, 51, 56, 347.
 v. Kennedy, 505.
 Day v. Day, 21.
 v. Sun Ins. Office, 575.
 v. Walls, 579.
 v. Woodworth, 559.
 Dayton v. Wilkes, 88, 89.
 De Grauw v. Schmid, 239.
 De Kuyper v. Witteman, 351, 507.
 De Long v. De Long Hook & Eye Co., 12, 65, 296.
 De Vitre v. Betts, 574.
 De Witt v. Hays, 567.
 De Youngs v. Jung, 65, 66, 421.
 Decker v. Decker, 65, 66, 523.
 Deering Harvester Co. v. Whitman & Barnes Mfg. Co., 9, 106,
 126, 127.
 Deiz v. Lamb, 307.
 Delaware & H. Canal Co. v. Clark, 2, 5, 6, 9, 36, 48, 53, 96, 100,
 101, 115, 119, 120, 122, 244, 435.
 Dennison Mfg. Co. v. Thomas Mfg. Co., 6, 9, 10, 49, 73, 104, 107,
 126-128, 374, 376, 514, 517, 518.
 Denver & R. G. Ry. v. Harris, 559.

[REFERENCES ARE TO PAGES.]

- Derringer v. Plate, 2, 30, 33, 41, 42, 134, 151.
 Desmond's Appeal, 335, 368, 514.
 Devlin v. Devlin, 14, 151, 276, 573.
 Dewitt v. Mathey, 274, 307.
 Diamond Ink Co. v. Day, 588.
 Dixon v. Fawcus, 351.
 Dixon Crucible Co. v. Benham, 476.
 v. Guggenheim, 14, 28, 30, 89, 221, 225, 226, 228-230, 260, 334,
 349, 357.
 Dodd v. Smith, 410.
 Dover Stamping Co., Ex parte, 591.
 v. Fellows, 200.
 Dreydoppel v. Young, 61, 112, 337, 347.
 Dreyfus v. Peruvian Guano Co., 561.
 Drummond Tobacco Co. v. Addison Tinsley Tobacco Co., 189, 327,
 339-341, 568.
 v. Randle, 300.
 Du Bois v. Kirk, 575.
 Dunbar v. Glenn, 2, 41, 44, 52, 99, 118, 163, 164.
 Duniway Pub. Co. v. Northwest Printing & Pub. Co., 14, 324, 340,
 346, 368.
 Dunn v. Trix Mfg. Co., 375.
 Dunnachie v. Young, 62.
 Duryea v. National Starch Mfg. Co., 413, 423.
 Duwel v. Bohmer, 578.
 Dwight v. Simon, 257.

E.

- E. T. Fairbanks & Co. v. Des Moines Scale & Mfg. Co., 192.
 Eastman Kodak Co. v. Reichenbach, 393, 394.
 Eckhart v. Consolidated Milling Co., 352.
 Edelsten v. Edelsten, 32, 36, 348, 361, 516, 559, 568, 569.
 Edelston v. Vick, 221, 323.
 Edmonds v. Benbow, 87.
 Edwin C. Burt Co., Ex parte, 585.
 Eggers v. Hink, 112.
 Egyptian Tobacco Co., Ex parte, 587.
 Einstein v. Sawhill, 581.
 El Modello Cigar Mfg. Co. v. Gato, 62, 96, 186, 323, 417, 514, 559, 568,
 Electro-Silicon Co. v. Hazard, 29, 36, 51, 70, 118, 325, 334, 347.
 v. Levy, 490.
 v. Trask, 364.

[REFERENCES ARE TO PAGES.]

- Elgin Butter Co. v. Elgin Creamery Co., 65, 66, 118, 120, 122.
 Elgin Nat. Watch Co. v. Illinois Watch Case Co., 118, 415, 435, 455,
 502, 580, 583, 590.
 Ellis v. Zeilin, 14, 514, 519.
 Emblen v. Myers, 559.
 Embrey v. Owen, 559.
 Emerson v. Badger, 134, 267.
 Empire Cycle Co. v. Monarch Cycle Mfg. Co. v. Meacham Arms
 Co., 594.
 Employers' Liability Assur. Corp. v. Employers' Liability Ins. Co.,
 298.
 England v. New York Pub. Co., 67, 68, 121, 413.
 Enoch Morgan's Sons' Co. v. Hunkele, 514, 520.
 v. Schwachhofer, 70, 491.
 v. Troxell, 108, 130, 392, 463, 491, 501, 522.
 v. Wendover, 404.
 Erie Ry. Co. v. Ramsey, 509.
 Ervin A. Rice Co., Ex parte, 589.
 Estcourt v. Estcourt Hop Essence Co., 568, 574.
 Estes v. Leslie, 363, 564.
 v. Worthington, 70, 180, 507, 525, 526.
 Evans, Ex parte, 589.
 v. Von Laer, 118, 119, 352, 435, 478, 482, 484.

F.

- F. H. Gilson Co., Ex parte, 585, 591.
 Faber v. Faber, 65, 121, 125, 130.
 Fair v. Morales, 229, 381.
 Fairbank v. Bell Mfg. Co., 380, 389, 470, 476, 478, 479, 501.
 v. Central Lard Co., 70, 71, 358.
 v. Luckel, King & Cake Soap Co., 273, 274, 350, 362, 569.
 v. Swift, 65, 66, 327, 338, 366.
 v. Windsor, 567.
 Fairbanks v. Des Moines Scale & Mfg. Co., 192.
 v. Jacobus, 14, 131, 198, 522.
 Falkinburg v. Lucy, 2, 108, 130, 134.
 Farina v. Silverlock, 5, 351, 507, 528, 574.
 Farley v. Kittson, 513.
 Farmers' Mfg. Co. v. Harrison, 594.
 Fay's Adm'rs v. Fay, 112.
 Featherstone, Ex parte, 585.

[REFERENCES ARE TO PAGES.]

- Feder v. Benkert, 226, 228.
 Fennessy v. Clark, 561.
 v. Day, 571.
 v. Rabbits, 561.
 Ferguson v. Davol Mills, 2, 3, 5, 9, 10, 30, 32, 41, 43, 64, 107, 108, 151.
 Fetridge v. Merchant, 523.
 v. Wells, 107, 135, 463, 523, 574.
 Field v. Lewis, 570.
 Filkins v. Blackman, 51, 162, 228, 230, 232, 235, 237, 249.
 Filley v. Child, 171.
 v. Fassett, 2, 29, 41, 43, 327, 339, 360.
 Fischer v. Blank, 130, 340, 392, 475, 477, 493.
 Fish Bros. Wagon Co. v. Fish Bros. Mfg. Co., 222, 266.
 v. La Belle Wagon Works, 221, 226, 227, 265.
 Fleischmann v. Newman, 110.
 v. Schuekmann, 324, 435.
 v. Starkey, 131.
 Flint & Walling Mfg. Co., Ex parte, 586.
 Foley, Ex parte, 586.
 Ford v. Foster, 209, 526.
 Foster v. Blood Balm Co., 73, 105, 523, 524.
 Fotheringham v. Adams Express Co., 559.
 Franck v. Frank Chickory Co., 485, 497.
 Frank v. Sleeper, 73, 74, 221.
 Franks v. Weaver, 494 .
 Frazer v. Frazer Lubricator Co., 233, 276, 564.
 French v. Alter, 523.
 Frese v. Bachof, 222, 501, 529.
 Frost v. Rindskopf, 55, 362, 406.
 Fuller v. Huff, 299.
 Fullwood v. Fullwood, 179, 281.
 Fulton v. Sellers, 29, 41, 42, 69, 108, 225, 231, 251.
 Funke v. Dreyfus, 171.

G.

- G. B. Miller & Co. Tobacco Manufactory v. Commerce, 29, 32, 36,
 323, 355, 378, 514, 516.
 G. F. Heublein, Ex parte, 589.
 G. G. White Co. v. Miller, 86, 191, 365, 519.
 Gabriel v. Sicilian Asphalt Pav. Co., 118.
 Gage-Downs Co. v. Featherbone Corset Co., 95, 438.

[REFERENCES ARE TO PAGES.]

- Gaines v. Leslie, 57, 378.
 Gale Mfg. Co., Ex parte, 585, 595.
 Gally v. Colt's Patent Fire-Arms Mfg. Co., 204.
 Gamble v. Stephenson, 307.
 Garrett v. T. H. Garrett & Co., 401, 416, 428, 452, 519.
 Gebbie v. Stitt, 436, 442, 519.
 Geilinger v. Philippi, 257.
 Genesee Salt Co. v. Burnap, 118, 119, 435, 436, 452.
 George v. Smith, 149, 153.
 George T. Stagg Co. v. Taylor, 73, 74, 157.
 German Hanoverian & Oldenberg Coach Horse Ass'n v. Oldenberg
 Coach Horse Ass'n, 300.
 Gessler v. Grieb, 110.
 Gibbs v. Consolidated Gas Co. of Baltimore, 394.
 Gilka v. Mihalovitch, 183.
 Gillis v. Hall, 221, 233, 520.
 Gillott v. Esterbrook, 2, 41, 43, 75, 78, 170, 357, 562.
 v. Kettle, 355, 401.
 Gilman v. Hunnewell, 2, 14, 29, 41, 43, 64, 65, 96, 108, 335, 337, 377,
 413.
 Gilson, Ex parte, 585, 591.
 Ginter v. Kinney Tobacco Co., 111.
 Giron v. Gartner, 73, 74.
 Glen Cove Mfg. Co. v. Ludeling, 71, 327, 340, 362, 503, 584, 593.
 Glen & Hall Mfg. Co. v. Hall, 29, 53, 70, 96, 173, 221, 225, 231, 243,
 257, 309, 314, 526.
 Glendon Iron Co. v. Uhler, 117, 122, 244, 435.
 Glenfield Starch Case, 444.
 Glenny v. Smith, 338.
 Glotin v. Oswald, 515.
 Godillot v. American Grocery Co., 73, 74, 160.
 v. Harris, 10, 73, 110, 135.
 v. Hazard, 2, 15, 29, 41, 44, 134, 136.
 Goldstein v. Whelan, 503, 524.
 Goodman v. Bohls, 375.
 Goodyear Rubber Co. v. Day, 204, 525.
 v. Goodyear's Rubber Mfg. Co., 157, 391.
 Goodyear's India Rubber Glove Mfg. Co. v. Goodyear Rubber Co.,
 35, 36, 54, 103, 110, 157, 296, 298, 500, 522.
 Gorham v. White, 329.
 Gorham Mfg. Co. v. Emery-Bird-Thayer Dry Goods Co., 378, 412.
 Graham v. Plate, 562, 565, 566.
 Gravel Roofers' Exchange v. Turnbull, 139.

[REFERENCES ARE TO PAGES.]

Graveley v. Graveley, 503, 511, 515, 582, 593.

Gray v. Koch, 308.

v. Taper Sleeve Pulley Works, 292.

Green v. Rooke, 523.

Guenther Milling Co., Ex parte, 585, 589.

Guernsey v. American Ins. Co., 509.

v. Phinzy, 575.

Guinness v. Ullmer, 351.

H.

Hagen v. Beth, 519, 523.

Hainque v. Cyclops Iron Works, 418.

Hall v. Barrows, 29, 42, 50, 152, 221, 222, 225, 226, 246, 501.

Hallett v. Cumston, 241.

Halstead v. Houston, 379, 411.

Hammer v. Barnes, 394.

Hampden Watch Co., Ex parte, 591.

Hance, Ex parte, 589.

Handy v. Commander, 6, 29, 151, 154.

Hanson's Trade-Mark, In re, 132.

Hargreaves v. Smith, 559.

Harper v. Lare, 410.

v. Pearson, 96.

Harrington v. Libby, 130.

Harris Drug Co. v. Stucky, 111, 592.

Harrison v. Taylor, 568.

Harson v. Halkyard, 415.

Hartell v. Viney, 112.

Hay & Todd Mfg. Co. v. Querns, 165, 586.

Hayne v. Sealy, 260.

Hazard v. Caswell, 57, 239-241, 270.

Hazelton Boiler Co. v. Hazelton Tripod Boiler Co., 2, 63, 65, 68,
136, 156, 165, 221, 233, 300, 391.

Hecht v. Porter, 355.

Hegeman v. Hegeman, 41, 62, 96, 108, 151, 167, 221, 242, 245, 257, 260.

v. O'Byrne, 357.

Heighington v. Grant, 574.

Heinisch v. Baker, 378, 389, 424.

Heinz v. Brueckmann, 340.

v. Lutz, 334, 335.

Heller v. Shaver, 377, 386, 442.

[REFERENCES ARE TO PAGES.]

- Helmbold v. Helmbold Mfg. Co., 2, 41, 44, 108, 121, 246, 260.
 Henderson, Ex parte, 589.
 Hendley, Ex parte, 590.
 Hendriks v. Montague, 392, 527.
 Hennessy v. Braunschweiger, 169, 503, 581, 583, 593.
 v. Herrmann, 351, 504, 515.
 v. Hogan, 355, 401.
 v. White, 355.
 v. Wilmerding-Loewe Co., 568, 572.
 Hennessey v. Buddie, 571.
 Hetterman v. Powers, 143, 145, 146.
 Heublein, Ex parte, 589.
 Hier v. Abrahams, 2, 41, 44, 56, 325, 331, 334, 357.
 Higgins v. Amalga Soap Co., 392, 424.
 v. Higgins Soap Co., 276, 287, 392, 413, 415.
 v. Keuffel, 597.
 Hildreth v. D. S. McDonald Co., 132, 389, 475, 498, 500.
 v. Sparks Mfg. Co., 351, 467.
 Hill v. Lockwood, 51, 520.
 Hill Mfg. Co. v. Sawyer-Boss Mfg. Co., 407.
 Hills v. Evans, 561.
 Hilson v. Foster, 384, 404.
 Hiram Holt Co. v. Wadsworth, 56, 204.
 Hiram Walker & Sons v. Hockstaeder, 463.
 v. Mikolas, 470.
 Hires v. Consumers' Co., 479, 496, 523, 532, 533.
 v. Hires, 420.
 Hoby v. Grosvenor Library Co., 307.
 Hoff v. Tarrant, 474.
 Hogg v. Kirby, 19, 20, 87, 410.
 Holbrook v. Nesbitt, 388, 397, 511.
 Holloway v. Holloway, 65, 276, 416, 447.
 Holmes v. Holmes, Booth & Atwood Mfg. Co., 285, 287, 291, 391, 392.
 Holt v. Menendez, 134.
 v. Wadsworth, 56, 204.
 Holzapfel's Composition Co. v. Rahtjen's American Composition Co.,
 205, 407.
 Hoochens v. Hoochens, 384.
 Horlick's Food Co., Ex parte, 592.
 Hornbostel v. Kinney, 110.
 Horton Mfg. Co. v. Horton Mfg. Co., 227, 284.

[REFERENCES ARE TO PAGES.]

- Hostetter v. Adams, 483.
 v. Anderson, 352.
 v. Becker, 354, 484.
 v. Bower, 354.
 v. Brueggeman-Reinert Distilling Co., 354.
 v. Comerford, 354.
 v. Fries, 2, 5, 107, 211.
 v. Lyons, 513.
 v. Martinoni, 384, 402.
 v. Sommers, 354, 384, 492.
 v. Van Vorst, 354, 572.
 v. Vowinkle, 327, 562, 564, 568.
 v. William Schneider Wholesale Wine & Liquor Co., 384.
- Hostetter Cases, 480.
- Howard v. Henriques, 96, 306, 416.
- Howe v. Howe Mach. Co., 14.
 v. Searing, 314.
- Howes Co. v. Howes Grain Cleaner Co., 296, 568.
- Hoxie v. Chaney, 222, 232, 235, 239, 248.
- Hoyt v. Hoyt, 2, 115, 132, 273, 274.
 v. Lovett, 118, 119, 163, 434.
- Hubinger v. Eddy, 341, 370.
- Hudson v. Bennett, 574.
 v. Osborne, 306.
- Hughes v. Hodges, 234.
- Humphrey's Homeopathic Medicine Co. v. Bell, 398, 475.
 v. Hilton, 75, 84, 106, 127.
- Humphrey's Specific Homeopathic Medicine Co. v. Wenz, 5, 75, 84.
- Hurricane Patent Lantern Co. v. Miller, 337, 367.
- Hutchinson v. Blumberg, 56, 363, 527.
 v. Covert, 363.
- Huwer v. Dannenhoffer, 221, 240, 241.
- Hygeia Distilled Water Co. v. Hygeia Ice Co., 378, 523.
- Hyman v. Solis Cigar Co., 34, 148-150, 593.

I.

- Illinois Watch-Case Co. v. Elgin Nat. Watch Co., 118, 581.
- Improved Fig Syrup Co. v. California Fig Syrup Co., 326, 365.
- India Rubber Co. v. Rubber Comb & Jewelry Co., 75, 77, 339, 340.
- Indiana Bicycle Co., Ex parte, 591.
- Indurated Fibre Co. v. Amoskeag Indurated Fibre Co., 111.

[REFERENCES ARE TO PAGES.]

Ingram v. Stiff, 87, 90.
 Insurance Oil Tank Co. v. Scott, 2, 133, 135.
 Interior Construction & Improvement Co. v. Gibney, 504.
 International Silver Co. v. Wm. G. Rogers Co., 424, 427.
 Investor Pub. Co. v. Dobinson, 301, 302, 392.
 Iowa Seed Co. v. Dorr, 284.

J.

J. B. Palmer's Trade-Mark, In re, 444.
 J. C. Hubinger Bros. Co. v. Eddy, 370.
 J. C. Mattingly Co. v. Mattingly, 223.
 J. & P. Baltz Brewing Co. v. Kaiserbrauerie, 56.
 Jackson v. Napper, 152.
 Jaeger's Sanitary Woolen System Co. v. Le Boutillier, 2, 4, 16, 42,
 146, 153, 401.
 Jaros Hygienic Underwear Co. v. Fleece Hygienic Underwear Co.,
 111, 517.
 Jarvis v. Peck, 394.
 Jay v. Ladler, 389.
 Jelley, In re, 343.
 Jenkins, Ex parte, 591.
 Jennings v. Johnson, 221, 481, 501.
 Johnson v. Bauer, 329, 361.
 v. Hitchcock, 403.
 v. Schenck, 222.
 Johnston v. Electric Age Pub. Co., 523.
 v. Orr Ewing, 327, 348, 526.
 Jones, In re, 572.
 Joseph Dixon Crucible Co. v. Benham, 476.
 v. Guggenheim, 14, 28, 30, 89, 221, 225, 226, 228-230, 260, 334,
 349, 357.
 Julian v. Hoosier Drill Co., 56, 169, 174, 179, 234.
 Jurgensen v. Alexander, 569.

K.

Kann v. Diamond Steel Co., 323, 367, 377, 378, 380.
 Kathreiner's Malzkaffee Fabriken Mit Beschraenkter Haftung v.
 Pastor Kniepp Medicine Co., 151, 152, 414, 417.
 Keasby, In re, 504.
 v. Brooklyn Chemical Works, 71, 119, 524.

[REFERENCES ARE TO PAGES.]

- Keller v. B. F. Goodrich Co., 57, 340, 366.
 Kelly v. Hutton, 85.
 Kennedy Corp. v. Kennedy, 233.
 Kerry v. Toupin, 86, 134, 600.
 Kidd v. Johnson, 6, 7, 9, 29, 33, 42, 51, 220, 221, 223, 235, 243, 270.
 Kimberley v. Jennings, 394.
 Kinney v. Allen, 75, 81.
 v. Basch, 324.
 Kinney Tobacco Co. v. Maller, 221, 463.
 Klotz v. Hecht, 398.
 Knoedler v. Glaenzer, 415.
 Knott v. Morgan, 410, 527.
 Koehler v. Sanders, 54, 108, 113, 273, 299.
 Kohler Mfg. Co. v. Beshore, 34, 112, 152, 153, 369, 592.
 Kramer v. Old, 233, 234.
 Krauss v. Joseph R. Peebles' Sons Co., 506.
 v. Peebles, 355.
 Krusius, Ex parte, 589.
 Kuhn & Co.'s Trade-Marks, In re, 571.
 Kyle v. Perfection Mattress Co., 452.

L.

- L. H. Harris Drug Co. v. Stucky, 111, 592.
 La Croix v. May, 505, 514, 583.
 La Republique Francaise v. Saratoga Vichy Spring Co., 441.
 v. Schultz, 193, 388, 441, 457, 569, 601.
 La Societe Anonyme Des Mines v. Baxter, 159, 355, 588.
 Lafean v. Weeks, 42, 73, 126, 132.
 Lalance & Grosjean Mfg. Co. v. National Enameling & Stamping
 Co., 341.
 Lamb Knit-Goods Co. v. Lamb Glove & Mitten Co., 295.
 Lamont v. Leedy, 111, 511.
 Landreth v. Landreth, 417.
 Langham's Appeal, 118.
 Lare v. Harper, 377, 409, 485, 524.
 Larrabee v. Lewis, 5, 6, 108, 109.
 Lattia v. McCarty, 567.
 Laughman's Appeal, 6, 8, 29, 120, 122, 221, 223, 435.
 Lavanburg v. Pfeiffer, 367.
 Lawrence v. Hull, 284.

[REFERENCES ARE TO PAGES.]

- Lawrence Mfg. Co. v. Lowell Hosiery Mills, 75, 79.
 v. Tennessee Mfg. Co., 29, 37, 48, 54, 106, 126, 127, 374, 378, 413,
 416, 435, 494, 511, 522, 528.
- Lawson v. Bank of London, 155, 559.
- La Clanche Battery Co. v. Western Electric Co., 54, 107, 108, 212,
 377, 381, 523.
- Le Page Co. v. Russia Cement Co., 221, 222, 233, 324, 362, 392, 415,
 559, 560.
- Lea v. Deakin, 118.
 v. Hailey, 383, 405.
 v. Miller, 118.
 v. Wolf, 61, 100, 118, 324.
- Leather Cloth Co. v. American Leather Cloth Co., 5, 14, 29, 42, 51, 113,
 221, 222, 225, 247, 253, 255, 256, 269.
 v. Hirschfield, 558, 560, 561.
 v. Lorsont, 234.
- Lee v. Haley, 136, 287, 344, 520, 527.
- Lefebvre, Ex parte, 586.
- Lehigh Valley Coal Co. v. Hamblen, 305.
- Leidersdorf v. Flint, 4, 5, 33, 42, 166, 514, 578.
- Lemoine v. Ganton, 31, 325, 559.
- Lempriere v. Lange, 572.
- Leonard v. White's Golden Lubricator Co., 70, 71, 358.
- Leprince v. Her, 594.
- Lever v. Goodwin, 340, 357, 362, 560, 561, 567.
 v. Pasfield, 56, 362.
 v. Smith, 573.
- Levy v. Waitt, 95, 139, 152, 153.
 v. Walker, 388.
- Lichtenstein v. Goldsmith, 86.
 v. Mebis, 568.
- Liebig's Extract of Meat Co. v. Libby, 125, 495.
- Lies v. Daniel, 523.
- Liggett & Myers Tobacco Co. v. Finzer, 340, 369.
 v. Hynes, 327, 329, 330, 340.
 v. Sam Reid Tobacco Co., 6, 29, 42, 46, 99, 107, 143, 327, 339, 364.
- Lightner v. Brooks, 507.
- Linoleum Mfg. Co. v. Nairn, 199, 200, 326, 444.
- Listman Mill Co. v. Listman Milling Co., 57, 222, 233, 339.
- Little, Ex parte, 590.
 v. Gallus, 394.
 v. Kellam, 72.
- Livingston v. Bishop, 507.

[REFERENCES ARE TO PAGES.]

Lloyd v. William S. Merrill Chemical Co., 71.
 Lockwood v. Bostwick, 221, 276, 361.
 Loge v. Weld, 284.
 Longman v. Winchester, 87.
 Lorillard v. Peper, 378, 390, 391, 449, 471, 477.
 v. Pride, 129, 202.
 Loveridge v. Larned, 574.
 Low v. Fels, 180, 568.
 v. Hart, 506.
 Lowell Mfg. Co. v. Larned, 43.
 Luyties v. Hollender, 115, 502, 503, 515, 581, 593.
 Lyon, Ex parte, 149.

M.

McAllister v. Stumpp, 267.
 McAndrew v. Bassett, 152, 437, 501, 570, 573.
 McCann v. Anthony, 322, 328, 331, 499.
 McCardel v. Peck, 306, 320, 528.
 McCartney v. Garnhart, 328.
 McCormick Harvesting Mach. Co. v. Walthers, 504.
 McGowan Bros. Pump & Machine Co. v. McGowan, 281.
 McHenry v. Jewett, 523.
 McIntire v. Pryor, 177.
 Mack v. Petter, 87.
 McLean v. Fleming, 2, 14, 35, 36, 42, 51, 53, 54, 62, 69, 134, 178,
 298, 327, 329, 330, 335, 336, 342, 347, 380-383, 389, 392, 494, 500, 512,
 526, 560, 568, 572.
 McLoughlin v. Singer, 469, 519, 522.
 McVeagh v. Valencia Cigar Factory, 39, 229.
 McVey v. Brendel, 142, 523, 584.
 Magee Furnace Co. v. Le Barron, 126, 127.
 Mahn, Ex parte, 598.
 Maltby v. Bobo, 507.
 Manhattan Medicine Co. v. Wood, 2, 12, 29, 49, 113, 206, 251, 262, 384.
 Manitowoc Mfg. Co. v. Dickerman, 594.
 Manitowoc Pea-Packing Co. v. Numsen, 86, 526.
 Manogue-Pidgeon Iron Co., Ex parte, 590, 591.
 Mansfield, C. & L. M. Ry. Co. v. Swan, 575, 576.
 Marcus Ward & Co. v. Ward, 107, 126, 127, 302, 397.
 Marsh v. Billings, 307, 559.
 v. Warren, 597.

[REFERENCES ARE TO PAGES.]

- Marshall v. Pinkham, 6, 8, 14, 108, 121, 125, 126, 252, 523.
 Massam v. Thorley's Cattle Food Co., 277, 417, 444, 458.
 Matsell v. Flanagan, 15, 88, 100, 362.
 Mattingly v. Mattingly, 221, 223, 233.
 v. Stone, 246, 257.
 Maxwell v. Hogg, 29, 148, 155, 157.
 Mayer v. Flanagan, 68, 137, 245, 247.
 Melachrino v. Melachrino Egyptian Cigarette Co., 326.
 Meneely v. Meneely, 62, 65, 121, 126, 276, 277, 391, 413, 416.
 Menendez v. Holt, 2, 72, 134, 137, 152, 156, 178, 224, 238, 241, 357, 378,
 512, 526, 568.
 Merchants' Detective Ass'n v. Detective Mercantile Agency, 391, 392.
 Meriden Britannia Co. v. Parker, 10, 11, 138, 249.
 Meriwether, Ex parte, 586.
 Merriam v. Famous Shoe & Clothing Co., 107, 112, 131, 208.
 v. Holloway Pub. Co., 207, 514.
 v. Texas Siftings Pub. Co., 112, 131.
 Merrimack Mfg. Co. v. Garner, 332, 333, 335, 523.
 Merry v. Hoopes, 221, 226, 228, 238, 239, 241.
 Messer v. Fadettes, 317.
 Messerole v. Tynberg, 36, 56, 100, 151, 348.
 Metcalfe v. Brand, 2, 4, 42, 94, 95, 108, 118, 156, 221, 340, 347, 349, 465.
 Metzler v. Wood, 87.
 Meyer v. Dr. B. L. Bull Vegetable Medicine Co., 415.
 Midlar & Holmes Shoe Co. v. Delsarte Mfg. Co., 427.
 Miles Corson Co. v. Young, 139.
 Miller, Ex parte, 589, 597.
 Miller Tobacco Manufactory v. Commerce, 29, 32, 36, 323, 355, 378,
 514, 516.
 Millington v. Fox, 22, 23, 27, 325, 526, 557, 568-570, 572, 573, 575.
 Milwaukee & St. P. Ry. Co. v. Arms, 559.
 Ministere Pub. v. Bernard, 165.
 Mississippi Glass Co., Ex parte, 591.
 Missouri Pac. Ry. Co. v. Humes, 559.
 Mitchell v. Harmony, 507.
 v. Henry, 45, 342, 525.
 v. Williams, 532.
 Moet v. Couston, 507, 568, 574.
 v. Pickering, 571.
 Monarch v. Rosenfeld, 65.
 Montgomery v. Thompson, 91, 382, 444, 446.
 Moorman v. Hoge, 130, 583.

[REFERENCES ARE TO PAGES.]

- Morgan v. Hunkele, 514, 520.
 v. Rogers, 222, 224, 228.
 v. Schwachhofer, 70, 491.
 Morgan Envelope Co. v. Walton, 118, 378.
 Morgan's Sons' Co. v. Troxell, 42, 45, 108, 130, 149, 392, 463, 491,
 501, 522.
 v. Wendover, 404.
 Morison v. Moat, 394.
 v. Salmon, 558.
 Morse v. Worrell, 341.
 Mossler v. Jacobs, 308, 327, 330, 417.
 Motley v. Downman, 52, 242.
 Mouson v. Boehm, 173.
 Moxie Nerve Food Co. v. Baumbach, 487.
 v. Beach, 351, 364.
 Munro v. Beadle, 57, 148.
 v. Smith, 42, 46, 105.
 v. Tousey, 57, 411.
 Muse v. Yarborough, 257.
 Myers v. Kalamazoo Buggy Co., 281, 527.
 v. Theller, 354, 481.

N.

- N. K. Fairbank Co. v. Bell Mfg. Co., 380, 389, 470, 476, 478, 479, 501.
 v. Central Lard Co., 70, 71, 358.
 v. Luckel, King & Cake Soap Co., 273, 274, 350, 362, 569.
 v. Swift, 65, 66, 327, 338, 366.
 v. Windsor, 567.
 National Biscuit Co. v. Baker, 71, 363.
 National Folding Box & Paper Co. v. National Folding Box Co., 292.
 National Starch Mfg. Co. v. Duryea, 124.
 v. Munn's Pat. Maizena & Starch Co., 213.
 Nave & McCord Mercantile Co., Ex parte, 590.
 Nebraska Loan & Trust Co. v. Nine, 301.
 Neilson v. Betts, 571.
 New England Awl & Needle Co. v. Marlborough Awl & Needle Co.,
 500.
 New England Gas & Coke Co., Ex parte, 597.
 New Haven Patent Rolling Spring Bed Co. v. Farren, 528.
 New Home Sewing Machine Co. v. Bloomingdale, 56, 363.
 New York Asbestos Mfg. Co. v. Ambler Asbestos Air-Cell Covering
 Co., 106, 112, 524.
 Trade-Marks—55.

[REFERENCES ARE TO PAGES.]

- New York Asbestos Mfg. Co. v. New York Fire Proof Covering Co., 523.
- New York Cab Co. v. Mooney, 323, 331, 366, 381, 527.
- New York Cent. Ins. Co. v. National Protection Ins. Co., 567.
- New York Consolidated Card Co. v. Union Playing Card Co., 320.
- New York Ice Co. v. Northwestern Ins. Co. of Oswego, 567.
- New York Polyclinic Medical School v. King, 88.
- New York & Rosendale Cement Co. v. Coplay Cement Co., 118, 262.
- Newbery v. James, 394.
- Newby v. Oregon Cent. Ry. Co., 287, 289.
- Newland v. Rogers, 518.
- Newman v. Alvord, 12, 41, 48, 95, 96, 98, 100, 107, 244, 262, 382, 383, 392, 437.
- v. Pinto, 574.
- Nicholls v. Kimpton, 569.
- Noel v. Ellis, 71, 363.
- Noera v. Williams Mfg. Co., 218, 221.
- Nokes v. Mueller, 107.
- Nolan Bros. Shoe Co. v. Nolan, 398, 415, 418, 431.
- Northcutt v. Turney, 187, 262.
- Nunn v. D'Albuquerque, 574.

O.

- O. & W. Thum Co. v. Tloczynski, 394.
- Oakes v. St. Louis Candy Co., 6, 108, 111, 165, 583.
- v. Tonsmierre, 51, 221, 237, 248.
- O'Kane v. West End Dry Goods Store, 533.
- Old Times Distillery Co. v. Casey, 192.
- Omega Oil Co. v. Weschler, 128, 162.
- Oppermann v. Waterman, 463.
- O'Rourke v. Central City Soap Co., 56, 57, 167, 181, 193.
- Orr Ewing v. Johnston, 327, 349.
- Osgood v. Allen, 88.
- v. Rockwood, 159, 355, 588.
- Ottoman Cahvey Co. v. Dane, 300.

P.

- P. Lorillard Co. v. Peper, 378, 390, 391, 449, 471, 477.
- Palmer v. Harris, 16.
- Palmer's Trade-Mark. In re, 444.

[REFERENCES ARE TO PAGES.]

- Paris Medicine Co. v. W. H. Hill Co., 466.
- Parkland Hills Blue Lick Water Co. v. Hawkins, 42, 46, 96, 163, 164, 404.
- Partlo v. Todd, 109.
- Partridge v. Menck, 16, 136, 251, 289, 332, 333, 520, 523, 569.
- Peabody v. Norfolk, 393, 394.
- Peats, Ex parte, 590.
- Peck v. Peck, 392, 414.
- Peek, Ex parte, 589.
- Peltz v. Eichele, 29, 225, 460, 558, 560.
- Penberthy Injector Co. v. Lee, 67.
- Pennsylvania Co. for Ins. on Lives & Granting Annuities v. Jacksonville, T. & K. W. Ry. Co., 575.
- Pennsylvania Salt Mfg. Co. v. Myers, 71, 470.
- People v. Home Life Assur. Co., 305.
v. Molins, 507.
- Peper v. Fordyce, 575.
- Pepper v. Labrot, 52, 220, 243, 257, 311.
- Perkins v. Heert, 145, 147.
- Perry v. Truefitt, 14, 23, 27, 35, 100, 110, 126, 322.
- Petrolia Mfg. Co. v. Bell & Bogart Soap Co., 72, 225.
- Peurrung v. Compton, 9.
- Pfeiffer v. Wilde, 484.
- Phalon v. Wright, 2, 15, 26, 41, 42, 108, 113.
- Phelps v. Wait, 507.
- Philadelphia Novelty Mfg. Co. v. Blakesley Novelty Co., 131.
v. Rouss, 131.
- Philadelphia, W. & B. R. Co. v. Quigley, 559.
- Phillips v. Gorham, 567.
- Pierce v. Franks, 569.
v. Guittard, 382, 383.
- Pike Mfg. Co. v. Cleveland Stone Co., 361.
- Pillsbury v. Pillsbury-Washburn Flour Mills Co., 413, 415, 431, 466.
- Pillsbury-Washburn Flour Mills Co. v. Eagle, 48, 374, 381, 416, 434, 439, 441, 452, 463, 506, 529.
- Pinto v. Badman, 72.
- Pittsburgh Crushed Steel Co. v. Diamond Steel Co., 169, 367.
- Pittsburgh Pump Co., Ex parte, 589, 590.
- Plant Seed Co. v. Michel Plant & Seed Co., 186, 381, 382, 514.
- Pollard v. Photographic Co., 394.
- Popham v. Cole, 114, 334, 335.
- Porous Plaster Co. of Village of Sing Sing v. Seabury, 529.
- Portuondo v. Monne, 523.

[REFERENCES ARE TO PAGES.]

- Postal Tel. Cable Co. v. Netter, 519.
 Postum Cereal Co. v. American Health Food Co., 367, 452.
 Potter v. McPherson, 41, 44, 56, 328, 340, 348.
 Potter Drug & Chemical Corp. v. Miller, 71, 363.
 v. Pasfield Soap Co., 368, 495.
 Powell v. Birmingham Vinegar Brewery Co., 9, 15, 199, 210, 214, 325,
 327, 379, 381, 444, 447, 457.
 Pract Mfg. Co. v. Astral Refining Co., 114.
 Pratt's Appeal, 85, 108, 121, 242, 268, 357.
 Press Pub. Co. v. Monroe, 559.
 Price Baking Powder Co. v. Fyfe, 56, 109, 520.
 Prince Mfg. Co. v. Prince's Metallic Paint Co., 29, 244, 261.
 Prince's Metallic Paint Co. v. Prince Mfg. Co., 190, 220, 243, 503, 515.
 Probasco v. Bouyon, 69, 225.
 Proctor v. Globe Refining Co., 107, 377, 466, 486.
 v. McBride, 55.
 Prowett v. Mortimer, 87.
 Pruitt v. Pruitt, 575.
 Putnam Nail Co. v. Bennett, 514.
 v. Dulaney, 108, 131, 274, 571.

R.

- R. Heinisch's Sons Co. v. Baker, 378, 389, 424.
 R. W. Rogers Co. v. Wm. Rogers Mfg. Co., 392, 417, 424, 427.
 Radam v. Capital Microbe Destroyer Co., 110, 343, 375.
 Raggett v. Findlater, 103, 110.
 Rahtjen's American Composition Co. v. Holzapfel's Composition Co.,
 191, 204, 205, 407, 452.
 Rankin v. Newman, 239.
 Rawlinson v. Brainard, 71.
 Raymond v. Royal Baking Powder Co., 47, 56, 173.
 Read v. Richardson, 401, 520, 526.
 Reckitt v. Kellogg, 381.
 Reddaway v. Banham, 92, 322, 379, 447, 455, 457.
 v. Bentham Hemp-Spinning Co., 444.
 Reeder v. Brodt, 33.
 Reeves v. Denicke, 284, 519.
 Reviewed Electro-Silicon Co. v. Hazard, 15, 36.
 Rice. Ex parte, 589.
 Richards v. Williamson, 352, 484.

[REFERENCES ARE TO PAGES.]

- Richardson v. Kimball, 507.
 Richmond Nervine Co. v. Richmond, 69, 220, 225, 227, 237.
 Richter v. Anchor Remedy Co., 150, 169, 592.
 v. Reynolds, 34, 150, 153, 592, 601.
 Rillet v. Carlier, 56, 360.
 Roberts v. Sheldon, 54, 56, 57, 358.
 Robertson v. Berry, 96, 242, 520.
 Robinson v. Finlay, 240.
 v. Storm, 65, 69, 348.
 Rock Springs Distillery Co. v. Monarch, 65, 413.
 Rodgers v. Nowill, 179, 516, 559, 572.
 v. Rodgers, 178.
 Rogers v. Rogers, 65-67, 277.
 v. Taintor, 281.
 v. Wm. Rogers Mfg. Co., 392, 417, 424, 427, 431.
 Rogers Mfg. Co. v. Rogers, 67, 68, 431.
 v. Rogers & Spurr Mfg. Co., 65, 382.
 v. Simpson, 65, 138, 273, 287.
 Rome Textile Co., Ex parte, 590.
 Rorke v. Societe des Huiles d'Olive de Nice, 260, 519.
 Rose v. Henley, 351.
 v. Loftus, 351, 484.
 Rousillon v. Rousillon, 234.
 Roussel v. Mathews, 575.
 Rowley v. Houghton, 153-155, 165, 327, 332, 526.
 Roy Watch Case Co. v. Camm-Roy Watch Case Co., 275.
 Royal Baking Powder Co. v. Davis, 470.
 v. Raymond, 2, 3, 30, 56, 149.
 v. Sherrell, 6, 7, 47, 106, 108, 126, 149.
 Rubel v. Allegretti Chocolate Cream Co., 69, 222, 227, 233, 328.
 Ruhstrat v. People, 86.
 Rumford Chemical Works v. Muth, 111.
 Russia Cement Co. v. Katzenstein, 355, 401.
 v. Le Page, 42, 65, 233, 276, 360, 413, 415.
 Ryder v. Holt, 503, 510, 515, 584.

S.

- S. Howes Co. v. Howes Grain Cleaner Co., 296, 568.
 S. A. Richmond Nervine Co. v. Richmond, 69, 220, 225, 227, 237.
 St. Louis Carbonating & Mfg. Co. v. Eclipse Carbonating Co., 99,
 232, 380.

[REFERENCES ARE TO PAGES.]

- St. Louis Piano Mfg. Co. v. Merkel, 165.
 St. Louis Stamping Co. v. Piper, 203.
 Salomon v. Hertz, 394.
 Samuel v. Berger, 247, 251, 523.
 v. Buger, 325.
 Samuels v. Spitzer, 374.
 Sanders v. Bond, 396.
 v. Jacob, 185, 193, 307.
 v. Utt, 98, 307.
 Sanitas v. Condy, 364.
 Sarrazin v. W. R. Irby Cigar & Tobacco Co., 34, 257, 582, 584, 593.
 Saunders v. Sun Life Assur. Co. of Canada, 294.
 Savage v. Berry, 564.
 Sawyer v. Horn, 35, 96, 377, 381-383, 501, 528.
 v. Kellogg, 187, 460, 469, 563, 565, 571.
 Sawyer Crystal Blue Co. v. Hubbard, 482.
 Saxlehner v. Apollinaris, 323, 346, 349, 379, 561, 572, 575.
 v. Eisner, 167, 168, 175, 177, 181, 573.
 v. Nielson, 464.
 Sayers v. Collyer, 561.
 Schendel v. Silver, 59, 72, 216.
 Scheuer v. Muller, 377, 463, 465.
 Schmid v. De Grauw, 282.
 Schmidt v. Brieg, 107, 110, 188, 463, 475.
 v. Welch, 475.
 Schneider v. Williams, 29, 35, 143, 144, 153, 154, 156.
 Schumacher v. Schwencke, 502, 515, 581, 582, 593.
 Scott v. Standard Oil Co., 9, 49, 50, 106, 107, 110, 352.
 Seager, Ex parte, 589.
 Seixo v. Provezende, 95, 331, 437, 444, 446, 447, 526.
 Selchow v. Baker, 2, 56, 58, 59, 151, 217, 523, 533.
 Seltzer v. Powell, 151, 523.
 Seymour v. McCormick, 558.
 v. United States, 584.
 Shaver v. Shaver, 2, 4, 151, 327, 347.
 Shaw v. Pilling, 339, 350, 560.
 v. Quincy Min. Co., 504.
 Shaw Stocking Co. v. Mack, 2, 3, 12, 42, 45, 75, 82, 327, 361.
 Shelley v. City of Austin, 343.
 Sheppard v. Stuart, 6, 10, 12, 55, 158, 171, 347, 355, 387.
 Sherwood v. Horton, 586, 595.
 Shipwright v. Clements, 222, 239.

[REFERENCES ARE TO PAGES.]

- Siegert v. Abbott, 5, 107, 119, 347, 384.
v. Findlater, 95, 152, 444-447, 526.
- Simmons Hardware Co. v. Weibel, 394.
- Simmons Medicine Co. v. Mansfield Drug Co., 37, 110, 125, 188, 193, 500.
v. Simmons, 389, 394.
- Singer Machine Manufacturers v. Wilson, 288, 346, 501.
- Singer Mfg. Co. v. Hippie, 379, 418.
v. June Mfg. Co., 2, 29, 35, 193, 195, 379, 406, 407, 413, 417-420, 454, 455, 495, 528, 591.
v. Larsen, 196.
v. Loog, 288, 444, 446, 489, 515, 559.
v. Riley, 198.
v. Stanage, 196.
v. Wilson, 287, 338, 556.
- Singleton v. Bolton, 19, 27, 110, 126, 210, 214, 516.
- Skinner v. Oakes, 12, 29, 63, 224, 229, 230, 232, 247, 248.
- Sleepy Eye Milling Co. v. C. F. Blanke Tea & Coffee Co., 583, 589, 594.
- Smail v. Sanders, 505, 526.
- Smith v. Reynolds, 355.
v. Sixbury, 56.
v. Walker, 2, 33, 42, 45, 107, 136, 151, 153, 172, 270.
- Smith & Davis Mfg. Co. v. Smith, 75, 106, 126.
- Snowden v. Noah, 88, 408, 410.
- Snyder Mfg. Co. v. Snyder, 226, 227, 237, 238, 270, 286.
- Societe Anonyme v. Western Distilling Co., 383, 564.
- Societe des Huiles d'Olive de Nice v. Rorke, 134, 140.
- Society of War of 1812 v. Society of War of 1812, 303.
- Sohier v. Johnson, 235, 239.
- Sohl v. Geisendorf, 170, 221, 231, 327, 330.
- Solis Cigar Co. v. Pozo, 42, 60, 72, 231, 237, 327.
- South Carolina v. Seymour, 581.
- Southern v. How, 17.
- Southern Pac. Co. v. Denton, 504.
- Southern White Lead Co. v. Cary, 377, 389.
- Spayd, Ex parte, 589.
- Sperry v. Percival Milling Co., 327, 341, 362.
- Spieker v. Lash, 233.
- Spottiswoode v. Clark, 523, 562.
- Spring Co. v. Spring Co., 55.
- Stachelberg v. Ponce, 251.
- Stagg v. Taylor, 73, 74, 157, 568.

[REFERENCES ARE TO PAGES.]

- State v. Berlinsheimer, 36, 142, 144.
 v. Bishop, 143, 147.
 State of South Carolina, Ex parte, 584.
 Steiger v. Heidelberger, 507.
 Stephens v. De Conto, 88.
 Sterling Remedy Co. v. Eureka Chemical & Mfg. Co., 71, 132, 327,
 367, 417, 473.
 v. Gorey, 455, 466.
 v. Spermine Medical Co., 455, 475, 532.
 Sterling Silk Mfg. Co. v. Sterling Silk Co., 385, 523.
 Stern v. Barrett Chemical Co., 71.
 Stetson v. Brennen, 528.
 v. Winsor, 308.
 Stevens v. City of New York, 509.
 Stewart v. Einstein v. Sawhill, 595.
 Stokes v. Allen, 42, 109, 335, 369.
 v. Landgraff, 2, 28, 29, 100, 135, 148, 149, 152, 463.
 Stone v. Carlan, 307.
 Stonebraker v. Stonebraker, 29, 562.
 Stoughton v. Woodard, 56.
 Strasser v. Moonelis, 144.
 Stuart v. F. G. Stewart Co., 417, 422, 423, 466.
 Stuart Medicine Co. v. Goldaine, 594.
 Stuhmer, Ex parte, 589.
 Supreme Council, L. F., v. Nidelet, 575.
 Swezey, In re, 53, 245-247.
 Swift v. Dey, 327, 328, 529.
 Sykes v. Sykes, 14, 21, 325, 556, 558.
 Symonds v. Greene, 55, 504, 510, 515, 520.
 v. Jones, 6, 8, 221, 223, 233, 243, 251.

T.

- T. B. Dunn Co. v. Trix Mfg. Co., 375.
 Tabor, Ex parte, 585.
 v. Hoffman, 394.
 Taendsticksfabriks Aktiebolaget Vulcan v. Myers, 319, 320, 330, 365,
 500.
 Tallcot v. Moore, 335, 389, 572.
 Tarrant v. Hoff, 348.
 Taylor v. Blanchard, 394.

[REFERENCES ARE TO PAGES.]

- Taylor v. Bothin, 240, 270.
 v. Carpenter, 2, 16, 24, 30, 133, 134, 136, 137, 149, 170, 171, 179,
 289, 392, 435, 505, 562, 569.
 v. Gillies, 100, 112.
 v. Taylor, 69.
- Tetlow v. Tappan, 57, 156, 170.
- Theford Medicine Co. v. Curry, 514, 516.
- Thiem v. Madden, 575.
- Thomas G. Plant Co. v. May, 107, 108.
- Thompson v. Montgomery, 377, 416, 442, 447.
- Thomson v. Batcheller, 204.
 v. Winchester, 23, 103, 110, 211, 558, 559.
- Thornton v. Crowley, 42, 324, 327.
- Thum v. Tloczynski, 394.
- Tietgens, Ex parte, 590.
- Tipping v. Clarke, 394.
- Tonge v. Ward, 570.
- Town v. Stetson, 110.
- Trade-Mark Cases, 11, 29, 33, 151, 154.
- Trask Fish Co. v. Wooster, 112, 378, 381.
- Troost v. Davis, 567.
- Tuck v. Priester, 394.
- Tucker Mfg. Co. v. Boyington, 203.
- Tuerk Hydraulic Power Co. v. Tuerk, 366, 527.
- Turton v. Turton, 65, 277, 280, 325, 446, 501.
- Tygert-Allen Fertilizer Co. v. J. E. Tygert Co., 183.

U.

- United States v. Braun, 143, 580, 593.
 v. Duell, 582.
 v. Koch, 580.
 v. Roche, 583.
 v. Seymour, 581.
 v. Sohn, 580.
 v. Steffens, 579.
- United States ex rel. Bronson Co. v. Duell, 581, 582.
- United States ex rel. Buffalo Pitts Co. v. Duell, 581, 582.
- United States Playing Card Co., Ex parte, 590, 597.
- Upmann v. Elkan, 571, 572.
 v. Forester, 571.

[REFERENCES ARE TO PAGES.]

V.

- Val Beil v. Prescott, 108, 112, 149.
 Van Auken Co. v. Van Auken Steam Specialty Co., 391.
 Van Camp Packing Co. v. Cruikshanks, 390, 484, 523.
 Van Hoboken v. Mohns, 480.
 Van Horn v. Coogan, 377, 381.
 Van Wyck v. Horowitz, 397.
 Velvriil Co., Ex parte, 591.
 Vickery v. Welch, 394.
 Vitascope Co. v. United States Phonograph Co., 453, 523, 528.
 Volger v. Force, 569.
 Voltz v. Blackmar, 559.
 Von Mumm v. Frash, 340, 349, 389, 401, 488.
 v. Wittemann, 351, 464.
 Vonderbank v. Schmidt, 63, 227, 307.
 Voorhies v. Frisbie, 394.

W.

- W. A. Gaines & Co. v. Leslie, 378.
 W. J. Johnston Co. v. Electric Age Pub. Co., 523.
 Wade v. Bunn, 564.
 Wagner v. Daly, 148, 151.
 Walker v. Alley, 307.
 v. Hockstaeder, 463.
 v. Mickolas, 470.
 Wallach v. Wigmore, 506.
 Walter Baker & Co. v. Baker, 363, 413, 422, 431, 486.
 v. Sanders, 69, 417.
 Walton v. Crowley, 14, 134, 136, 137, 162, 221, 231, 520.
 Wamsutta Mills v. Allen, 355.
 Ward v. Ward, 107, 126, 127, 302, 397.
 Warner v. Roehr, 559.
 Warren v. Warren Thread Co., 221.
 Waterman v. Shipman, 7, 57.
 Watkins v. Landon, 214, 411.
 Waukesha Hygeia Mineral Springs Co. v. Hygeia Sparkling Dis-
 tilled Water Co., 264.
 Weber Medical Tea Co. v. Kirchstein, 399.
 v. Weber, 532.
 Wedgwood v. Smith, 62.

[REFERENCES ARE TO PAGES.]

- Weed v. Peterson, 571.
Weener v. Brayton, 2, 4, 31, 35, 141, 144, 221, 229, 530.
Weil, Ex parte, 590.
Weinstock v. Marks, 275, 307, 366, 381, 382, 527.
Welch v. Knott, 354.
Weldon v. Dicks, 88.
Wellman & Dwire Tobacco Co. v. Ware Tobacco Works, 464, 501.
Werckmeister v. Pierce, 597.
Western New York Preserving & Manufacturing Co., Ex parte, 588.
Weston v. Ketcham, 229, 252.
Wharton v. Thurber, 573.
Wheeler & Wilson Mfg. Co. v. Shakespear, 198, 571.
White v. Lyons, 509.
 v. Miller, 86, 191, 365, 519, 588.
 v. Sclect, 9, 256, 520, 525.
Whitfield v. Loveless, 148, 299, 306.
Whitley Grocery Co. v. McCaw Mfg. Co., 519.
Wickert, Ex parte, 597.
Wiggins v. McDonald, 567.
Wilcox & Gibbs Sewing-Machine Co. v. Gibbens Frame, 107, 131,
 202.
 v. Kruse & Murphy Mfg. Co., 202.
William Rogers Mfg. Co. v. R. W. Rogers Co., 67, 68, 431.
 v. Rogers & Spurr Mfg. Co., 65, 382.
 v. Simpson, 65, 138, 273, 287.
Williams v. Adams, 57, 189.
 v. Brooks, 341, 343, 522.
 v. Farrand, 63, 121, 126, 226, 227, 282.
 v. Johnson, 57, 152, 324, 327, 463.
 v. Mitchell, 566.
 v. Prince of Wales Life, etc., Co., 394.
 v. Spence, 57, 323.
 v. Williams, 394.
Willis v. Terry, 574.
Wilmer v. Thomas, 221, 228, 258.
Wilson v. T. H. Garrett & Co., 414.
Wirtz v. Eagle Bottling Co., 327, 339, 340.
Witthaus v. Braun, 523.
 v. Mattfeldt, 221, 225, 228-230, 252.
Wolfe v. Barnett, 2, 14, 41, 60.
 v. Burke, 12, 107, 108, 121.
 v. Goulard, 70, 100, 108, 523.

[REFERENCES ARE TO PAGES.]

- Wood v. 507.
Woodman & Hewitt Mfg. Co. v. Williams, 388.
Woodward v. Lazar, 306.
Woolf v. Woolf, 571.
Woolwine, Ex parte, 586.
Worden v. California Fig Syrup Co., 111, 385, 566.
Wotherspoon v. Currie, 11, 90, 100, 326, 377, 383, 416, 437, 443, 444,
446, 447.
Wright v. Wilcox, 507.
Wrisley v. G. E. Rouse Soap Co., 367.
 v. Iowa Soap Co., 206, 385, 450.
Wyckoff v. Howe Scale Co., 427.
Wyeth v. Stone, 568.

Y.

- Young v. Jones, 240, 270.
 v. Macrae, 110, 326.
Young Women's Christian Ass'n v. International Committee, Y. W.
 C. A., 67.
Yovatt v. Winyard, 394.

INDEX.

[REFERENCES ARE TO SECTIONS.]

A.

ABANDONMENT (see "Loss of Trade-Mark Rights").

ACCESSORIES,

infringement may appear from, 192.
not avoided by change of, 204.

ACCIDENT,

adoption of mark originating in accident, rather than design,
92 and note.

ACCOUNT (see chapter xiv.),

loss of right by delay in prosecution of infringement, 109.
on postponement of ruling of motion undertaking to keep ac-
count proper, 302.
plaintiff on injunction for infringement may refuse offer of de-
cree for account of profits, 325.
effect on right of silence of proprietor with knowledge, 104.

"ACID PHOSPHATE" (medicinal preparation),

descriptive words invalid as trade-mark, 64.

ACQUIESCENCE (see "Infringement"; "Loss of Trade-Mark
Rights"),

in use by others as preventing action against infringer, 104.
admission in pleading of acquiescence as concluding proprietor
as to abandonment, 104.
to avail, must be such as creates new right in defendant, 109.
use by others as making the term generic, 112.
by person in wrongful use of his name as estoppel, 164.

[REFERENCES ARE TO SECTIONS.]

ACQUISITION (see "Property in Trade-Marks").

ACTIONS AT LAW,

for infringement of trade-mark or trade-name, 20, 323, and note.
not necessary to recovery that any one has actually been deceived, 191.

will lie, though plaintiff employed another mark, and had ceased to use the earlier one, 187.

declaration or complaint at law for infringement or unfair competition, 295.

answer at law for infringement, 296.

demurrer at law, 297.

remedy not affected by act of 1870. Appendix, p. 606.

ACTS OF CONGRESS,

registration allowed to marks used in commerce with foreign nations and with Indian tribes, 335.

prohibition of registration to mark identical with registered or known trade-mark, 338.

act of 1870, 328, Appendix, pp. 603-607.

unconstitutional, 330.

rights of registrants and parties applying for registration under, Appendix, p. 621.

penal act of 1870, Appendix, pp. 607-610.

federal trade-mark act of 1876, 329.

unconstitutional within decision as to act of 1870, 331.

act of 1881, 21, Appendix, pp. 610-614.

the present law on subject, 332.

constitutionality not yet determined, 332.

act of 1882 adds nothing to the act of 1881, 348.

allows registration of trade-marks lawfully in use at time of passage of act of 1881, Appendix, p. 614.

act of 1897, prohibiting infringement by importers, Appendix, p. 615.

relating to registration of prints and labels, 349, Appendix, pp. 616, 617.

"ADAMS' SAPOTA TOLU" (chewing gum),

not infringed by "Heisel's Elastic Tolu," 206.

fanciful name as trade-mark, 51.

[REFERENCES ARE TO SECTIONS.]

ADDRESS,

as part of fanciful mark or device, 3.

ADMINISTRATION,

trade-mark may pass from parent to child without, 158.

title of administrator of assignee to trade-mark, 153.

joint ownership in trade-mark arising by succession to business on death of original owner, 158.

ADMISSION (see "Acquiescence"; "Pleading").

ADOPTION (see "Property in Trade-Mark"),

rights of first appropriator of trade-mark, 2.

property right only acquired by adoption and use, 90.

ADVERTISEMENT,

advertising one as "late with" not unfair competition, 219.

advertising fact of former employment must convey true nature of former connection, 219.

unfair competition where retail dealer advertises himself as successor to the wholesale business, simply discontinued, 219.

similarity of methods of advertising as determining intent to deceive, 266.

false statements in, as defense to suit for infringement, 317, note.

attorney's advertisement not permitted on drawing filed with application in patent office, Appendix, p. 625.

AFFIXING TRADE-MARK,

to what mark may be applied, 98.

must be affixed to commercial article, 22, 48.

state statutes, Appendix, pp. 649-825.

may be applied to cork stopper, 99.

how applied, 99.

mark is property only where used to indicate origin and ownership, 18.

may be printed and placed loosely in receptacle with article, 99.

affixing, gives owner exclusive right of article manufactured, 77.

construction of registration act with reference to filing statement of mode of affixing mark, 339.

[REFERENCES ARE TO PAGES.]

AFFIXING TRADE-MARK (Cont'd),

not necessary to injunction against manufacturer of infringing labels that labels be actually affixed, 199.

liability for fraudulent affixing under federal penal act of 1876, Appendix, p. 607.

"A. G." (monogram),

infringed by monogram formed of letters "F. G." on similar package, 53.

AGENCY,

liability of agents for infringement, 289.

effect of knowledge of infringement by agent, 109.

violation of injunctive order by agent, 304.

order does not bind agent after employment at end, 304.

AIDING OR ABETTING,

liability of aidor or abettor of infringement under federal penal act of 1876, Appendix, p. 610.

"AINSWORTH THREAD,"

personal name as part of trade-mark, 47.

"AIR BRUSH" (paint brush),

descriptive words invalid as trade-mark, 64.

"AKRON" (cement),

rejected as misleading, 28.

"AKRON DENTAL RUBBER" (dental articles),

example of common word as trade-mark, 36.

infringed by words "Made According to Our Analysis of the Akron Dental Rubber," 206.

ALABAMA,

legislation on subject, Appendix, p. 649.

ALASKA,

legislation on subject, Appendix, p. 649.

[REFERENCES ARE TO SECTIONS.]

ALIENS (see "Citizens"),

acquisition by alien, 80.

right to sue for infringement, 288.

abandonment of right by failure to suppress infringement in native country, 102.

treaties and international conventions for the protection of trade-marks, 351, note, Appendix, pp. 825-840.

ALUMINUM (metal),

descriptive words invalid as trade-mark, 64.

monopoly in material as warranting injunction against unfair competition, 221.

AMENDMENT,

after allowance of application where merits not affected, Appendix, p. 626.

declaration or oath may not be amended, Appendix, p. 623.

statement may be amended to correct informalities, but not unless warranted by something in statement as originally filed, Appendix, p. 625.

form of amendment to application for registration, Appendix, p. 634.

rules of patent office as to amendments where such amendments are allowed, Appendix, p. 625.

rules of patent office as to amendments of application for registration of print or label, Appendix, pp. 640, 641.

rule as to amendment of a mandatory clause, Appendix, p. 626.

"AMERICAN WASH BLUE,"

exclusive right to name of "American," 243.

relief not be denied on ground of misrepresentation as to articles not included in suit, 213.

"AMOSKEAG" (fabric),

geographical term as trade-mark, 59, note.

right to use term on dissimilar articles, 96.

AMOUNT IN CONTROVERSY (see "Courts").

"ANCHOR,"

application for registration, 344.

limitation of use of symbol by registration in particular color, 103.

Trade-Marks—56.

[REFERENCES ARE TO SECTIONS.]

"A. N. HOXIE'S MINERAL SOAP,"

example of impersonal trade-mark personal in form, 31.

"A. N. HOXIE'S PUMICE SOAP,"

example of impersonal trade-mark personal in form, 31.

not a personal name, within rule as to assignment of personal names as trade-marks, 139.

ANSWER (see "Pleading").

"ANTIQUARIAN BOOK STORE,"

refused protection as trade-name on ground of descriptiveness, 177.

"ANTI-WASHBOARD" (soap).

example of common word as trade-mark, 36.

loss of trade-mark by laches, 109.

APPEAL,

power of court on appeal from grant or refusal on preliminary injunction, 307.

rules of patent office governing appeals from decision of examiner, Appendix, pp. 627, 642.

APPEARANCE,

in cases for infringement brought in federal court, 286.

APPLICATION (see "Affixing Trade-Mark").

construction of application for registration, 344.

rules of patent office governing form and sufficiency of application for trade-mark, Appendix, p. 622.

for registration of trade-mark under federal act of 1881, Appendix, pp. 610, 611.

rules for examination in patent office, Appendix, p. 625.

rules of patent office as to subject-matter for application for registration of print or label, Appendix, p. 641.

form and requisites of application for registration of print or label, Appendix, pp. 639, 640.

on completion of application for registration of print or label, copies of papers only will be furnished, Appendix, p. 641.

[REFERENCES ARE TO SECTIONS.]

"APPOLLINARIS,"

with representation of "anchor," infringed by word "Appollinus," used with representation of "bow and arrow," 205.

APPROPRIATION (see "Property in Trade-Mark").

ARBITRARY SELECTION,

adoption of numerals with name of manufacturer as satisfying requirements of trade-mark, 55.

ARBITRARY SYMBOLISM,

see "Names" for fanciful names.

application of word to article must be arbitrary or fanciful, 37.

ARIZONA,

legislation on subject, Appendix, pp. 650, 651.

ARKANSAS,

legislation on subject, Appendix, p. 650.

"AROMATIC SCHIEDAM SCHNAPPS" (gin).

descriptive words invalid as trade-mark, 64.

"ASEPSIN" (antiseptic compound).

newly-coined word, 50.

ASSETS (see "Property in Trade-Mark").

ASSIGNMENT (see "Transfer of Trade-Mark").

ASSIGNMENT FOR BENEFIT OF CREDITORS (see "Bankruptcy").

goodwill and business name pass to assignee, 162.

right of administrator of assignee to trade-mark, 153.

instance of general assignment not passing trade-mark, 150.

ASSOCIATION,

to show origin and ownership, 1, 3, 25, 61.

acquisition after long use, 4.

of manufacturers as owners of trade-mark within registration act, 334.

acquisition by association whose members apply union labels, 85, and note.

[REFERENCES ARE TO SECTIONS.]

"ASTRAL LAMP,"

long use of term preventing appropriation, 66.

ATTORNEYS,

rules governing conduct of attorneys in business connected with registration of trade-mark, Appendix, pp. 618, 619.

rules governing employment and duties of attorneys applying for registration of trade-marks, Appendix, pp. 619, 620.

right to revoke power of attorney in proceedings for registration of trade-marks, Appendix, p. 620.

commissioner may refuse recognition to attorney for gross misconduct, Appendix, pp. 620, 637.

necessity that power of attorney be filed as a condition to inspection of papers in trade-mark proceedings, Appendix, p. 620.

attorney's advertisement not permitted on face of drawing filed with application for registration, Appendix, p. 625.

rules of patent office governing department of attorneys in proceedings for registration of prints and labels, Appendix, p. 635.

power must be filed as a condition to correspondence by patent office with attorney in print and label proceedings, Appendix, p. 636.

revocation of power of attorney in print and label proceedings, Appendix, p. 637.

substitution of attorneys in patent office in print and label proceedings, Appendix, p. 637.

necessity that power be filed as a condition to inspection in print and label proceedings, Appendix, p. 637.

AUSTRIA-HUNGARY,

convention relating to trade-marks, Appendix, pp. 830, 831.

rights under Hungarian registration, 107.

AUTHORS,

nom de plume, 69.

right to register print or label, within rules of patent office, Appendix, pp. 637-639.

"AWL PACKAGE" CASE,

unfair competition in use of similar package by competitor, 285, note.

[REFERENCES ARE TO SECTIONS.]

B.

"BAKER'S COCOA" (chocolate preparation),

unfair competition by adoption of similar name by competitor,
236, 239.

unfair competition in use of similar package, 272.

"BAKING SODA,"

infringed by use of same mark on baking powder, 202.

"BALM OF THOUSAND FLOWERS,"

false statements as to ingredients as defeating suit for infringement,
320.

BANKRUPTCY (see "Assignment for Benefit of Creditors"),

as conveyance of trade-mark, 148.

distinction between sale by proprietor and sale by assignee, 151.

BARREL,

as part of trade-mark to which applied, 26.

"B. B. B.,"

letters valid as trade-mark, 53.

BELGIUM,

treaty regulating trade-marks, Appendix, pp. 828, 829.

presidential proclamation of international copyright, Appendix,
p. 638.

member of International Union under Brussels act, Appendix,
pp. 840-843.

"BENEDICTINE,"

unfair competition in use of term, 211.

"BEST SIX-CORD, 200 YDS." (thread),

descriptive words invalid as trade-mark, 64.

[REFERENCES ARE TO SECTIONS.]

"BETHESDA" (mineral water),

as subject to trade-mark, 98.

allowable use of descriptive term, 59, note.

example of local trade-mark, 32.

BIBLES (see "Books").

BICYCLES,

not within same class as pneumatic tires for bicycles, within registration act, 340.

BILL IN EQUITY (see "Pleading").

"BINGHAM SCHOOL,"

legislative incorporation of personal name, 70.

"BISMARCK" (paper collar),

use of common word as trade-mark, 36.

"BLACK DIAMOND,"

infringed by words, "Diamond Jim," 205.

"BLACKMAN'S GENUINE HEALING BALSAM,"

example of impersonal trade-mark personal in form, 31, 139.

"BLACK PACKAGE TEA,"

unfair competition by use of similar package, 278.

"BLACKSTONE" (cigars),

instance of customer's brands not to be acquired by manufacturer, 84.

BLENDING (see "Combination").

"BLUE LICK WATER" (mineral),

allowable use of geographical term, 59, note.

case discussed with reference to abandonment by laches, 109.

infringement by giving another water, where "Blue Lick Water" called for, 224.

[REFERENCES ARE TO SECTIONS.]

BONDS (see "Injunction").

BOOKS (see "Copyright"; "Prints and Labels"),

unfair competition in fraudulent imitation of titles, 230.

in rebinding cheap edition of book, 230.

by adoption of word "Oxford" for Bibles printed elsewhere,
248.

"BOOTH'S THEATRE,"

trade-name belonging to particular building, 180.

"BORAX SOAP,"

descriptive words invalid as trade-mark, 64.

BOTTLES,

deceptive statement on, as preventing relief for infringement,
315.

unfair competition in use of bottles of similar form, 268.

second use restrained, 268.

unfair competition by use of bottle stamped with plaintiff's
name, 269.

state statutes for protection of bottlers, Appendix, pp. 649-825.

"BOVILENE,"

infringed by word "Bovine," 205.

BOXES (see "Packages").

BRANDS (see "Labels").

BRAZIL,

agreement concerning trade-marks between, and United States,
Appendix, p. 833.

"BREAKFAST FOODS,"

class within registration act, 340.

"BROMIDIA" (medical compound),

newly-coined word as trade-mark, 50.

[REFERENCES ARE TO SECTIONS.]

"BROMO-CAFFEINE" (medical preparation),

newly-coined word as trade-mark, 50.

BRUSSELS ACT (see "Treaties").

"B. T. BABBIT'S SOAP,"

not infringed by words "B. T. Butler," 206.

BUILDING,

trade-mark may become affixed to, 180.

BURDEN OF PROOF (see "Evidence"; "Infringement").

C.

CALIFORNIA,

legislation on subject, Appendix, pp. 656-661.

"CALIFORNIA FIG SYRUP,"

denial of relief for infringement for false statements as to ingredients, 320.

"CALIFORNIA FRUIT,"

unfair competition by fruit canned outside state, and labeled "California Fruit," 243.

"CAMEL-HAIR BELTING,"

allowable use of descriptive term, 59.
unfair competition, 252.

CANADA,

rule as to descriptive words, 63.

"CANADIAN RYE WHISKEY,"

unfair competition in use of label, 257.

CAPACITY,

letters or figures indicating capacity as subject of trade-mark, 75.

[REFERENCES ARE TO SECTIONS.]

"CAPCINE,"

denial of relief for infringement for false statements as to ingredients, 320.

"CARLSBAD" (mineral waters),

allowable use of geographical term, 59, note.

"CARLSBAD SPRUDEL SALTS,"

infringed by "Improved Effervescent Carlsbad Powder," on an artificial product, 205.

CASES (see "Packages").

"CASHMERE BOQUET" (soap),

infringed by "Violets of Cashmere," 205.

"CASTORIA,"

unfair competition in use of similar packages, 266.

loss of mark by expiration of patent, 110.

protection from unfair competition after expiration of patent, 228.

CAUTION,

on part of purchasers as element of infringement, 190.

"CELLULOID" (compound of pyroxyline),

newly-coined word, 50.

use of term by public to designate article as depriving coiner of use of term, 39, 114.

right to use word on dissimilar articles, 96.

infringed by word "Cellunite," 205.

"CENTENNIAL" (medals),

descriptive words invalid as trade-mark, 64.

CERTIFICATES (see "Registration").

"CHAMPION" (flour),

example of common word as trade-mark, 36.

[REFERENCES ARE TO SECTIONS.]

CHANGE,

right of proprietor to change, 1.

"CHARTER OAK" (stoves);

abandonment of right to trade-mark, 104.

infringement of mark by separation of words from other part of trade-mark, 204.

"CHATTER-BOX" (publication),

infringed by "Chatter-Book," 205.

newly-coined word, 50.

"CHERRY PECTORAL" (medicinal compound),

instance of descriptive words invalid as trade-mark, 64.

instance of long use of term preventing exclusive appropriation, 66.

"CHICAGO WAISTS,"

unfair competition by sale of goods bearing same name, but manufactured in another city, 243.

"CHICKEN COCK WHISKEY,"

infringed by "Game Cock Rye," 205.

CHILI,

presidential proclamation of international copyright, Appendix, p. 638.

"CHRISTY'S MINSTRELS,"

protected as trade-name, 178.

CIGARETTES,

in same class with smoking tobacco, within registration act, 340.

not in same class as cigars, within registration act, 340.

CITIZENS (see Aliens),

acquisition of trade-mark not limited to citizens, 80.

citizenship as determining right to register trade-mark, within rules of patent office, Appendix, pp. 620, 621.

[REFERENCES ARE TO SECTIONS.]

CITIZENS (Cont'd),

- right to register print or label, Appendix, pp. 637-639.
- right of citizen to protection of trade-mark in foreign country under rules governing registration in patent office, Appendix, p. 621.
- diverse citizenship as determining jurisdiction as between state and federal courts, 286.

"CIVIL SERVICE BOOT SUPPLY,"

- unfair competition, 226.

"CLARK'S SPOOL COTTON,"

- property in trade-mark, 16.
- unfair competition in use of label, 263.

CLASS,

- no trade-mark where primary object to designate class, 27.
- letters or figures indicating class as subject of trade-mark, 75.
- necessity to infringement that infringing use must be on same class of goods, 202.
- similarity of articles preventing registration, within federal act, 340.
- construction of act with reference to marks used for different classes of merchandise, 340.

CLASSIFICATION,

- division into personal and impersonal trade-marks, 31.
- Lord Romilly's classification of trade-marks, 31.
- Tudor's classification of trade-marks, 31.

"CLINTON" (paint),

- geographical term invalid as trade-mark, 67.

"CLINTON HEMATITE RED" (paint),

- descriptive words invalid as trade-mark, 64.

"CLUB HOUSE" (gin),

- descriptive words invalid as trade-mark, 64.
- instance of long use of term to designate article as preventing appropriation, 66.

[REFERENCES ARE TO SECTIONS.]

"COAL-OIL JOHNNIE'S PETROLEUM SOAP,"

instance of fanciful phrase as trade-mark, 51.
 disclosure of trade secret by employe, 217.
 whether a material misrepresentation as to largest ingredient,
 322.

"COCAINE,"

infringed by word "Cocoine," 205.
 newly-coined word, 50.

COINED WORDS (see "Words").

COLLIERY CASE,

unfair competition, 243.

"COLLINS & CO.,"

example of impersonal trade-mark, though personal in form, 31.

"COLONIAL DAMES,"

term not capable of exclusive appropriation as trade-name, 175.

COLOR,

of advertisement as subject of trade-mark, 76.
 of package or article manufactured as subject of trade-mark, 79.
 similarity of color of wrappers as unfair competition, 267.

COLORABLE IMITATIONS (see "Infringement").

COLORADO,

legislation on subject, Appendix, p. 661.

"COLTON DENTAL ROOMS."

sustained as trade-name, 177.

"COLUMBIA,"

instance of previous appropriation, 66.
 geographical term invalid as trade-mark, 67.

"COLUMBIA HOTEL,"

right to trade-name, 177.

[REFERENCES ARE TO SECTIONS.]

COMBINATION,

- letters and figures, 55.
- letters and other features, 52.
- of numerals, 54.
- numeral and name of manufacturer, 55.
- of letters, 53.
- signs, figures, devices, etc., as subject of trade-mark, 1, 25.
- of names of descendants of original manufacturers as unfair competition, 237.
- geographical term and name of corporation, 59, note.
- common words and other features, 40, and note.
- descriptive words not made registrable in combination with non-registrable words, 341.
- personal and impersonal trade-marks, 31.
- picture surrounded by descriptive words, 57.
- validity where name of article and of proprietor so blended that right to use of name is indispensable to use of trade-mark, 43.

COMMERCIAL NAMES (see "Trade-Names").

COMMERCIAL SIGNATURE,

- trade-mark as owner's commercial signature, 1.

COMMISSIONER OF PATENTS,

- registration of trade-marks, 333.
- registration of prints and labels, Appendix, p. 617.
- registration of foreign trade-marks under treaties, pp. 826-844.
- right to decide the presumptive lawfulness of trade-mark under federal act of 1881, Appendix, p. 612.
- announcement of rules governing registration, Appendix, pp. 618-635.
- may not receive as trade-mark name of person, firm, or corporation when unaccompanied by distinguishing mark, under act of 1870, Appendix, p. 605.
- power to prescribe forms for assignment and transfer of trade-marks, Appendix, pp. 606, 614.
- jurisdiction on appeal from decision of examiner, Appendix, p. 627.
- decision of questions of interference, 347.
- duty of commissioner to decide on question of identity of registered or known trade-mark, 338.
- trade-marks relating to patents, see "Patents."

[REFERENCES ARE TO SECTIONS.]

COMMON LAW,

- recognition of trade-mark, 4.
- attributes of common-law trade-mark, 25.
- common-law character not changed by statutes, 21, 334.
- defects in remedy as ground for relief in equity, 19.
- sufficiency and requisites of pleading in suits for infringement,
see "Pleading."

COMMON WORDS (see "Words").

COMPENSATORY DAMAGES (see "Damages").

COMPETITION (see "Unfair Competition").

"COMPRESSED YEAST,"

- descriptive words invalid as trade-mark, 64.

CONCURRENT REMEDIES (see "Remedies").

CONFLICT OF LAWS,

- incorporation in different states of corporations having similar names, 174.

CONFUSION,

- by adoption of more than one trade-mark for same article, 61.

"CONGRESS WATER" (mineral water),

- as subject of trade-mark, 98.
- example of common word as trade-mark, 36.
- local trade-mark, 32.

CONNECTICUT,

- legislation on subject, Appendix, pp. 666-670.

CONSENT (see "Acquiescence").

CONSTITUTIONAL LAW,

- act of 1870 unconstitutional, within the commerce clause of the constitution, 330.
- provision authorizing statutes for protection of prints or labels, Appendix, p. 615.

[REFERENCES ARE TO SECTIONS.]

CONTEMPT,

- violation of injunctive order, 304.
- parties to motion to punish, 304.
- sufficiency of showing to sustain motion, 304.

CONTINENTAL,

- descriptive term incapable of exclusive appropriation, 173.

CONTINUANDO (see "Pleading").**CONTRACTS (see "Transfer of Trade-Marks"),**

- right on termination of contract as to use, 84.
- province of trade-mark to bring seller and buyer together, 5.
- joint ownership of trade-mark arising by agreement, 156.

CONVENTIONS (see "Treaties").**COPIES,**

- rule of patent office as to orders for copy of assignment, Appendix, p. 643.
- rule of patent office governing issuance of copies of statement and declaration, Appendix, p. 628.
- rule of patent office as to number of copies of print or label to accompany application for registration, Appendix, p. 639.
 - as to furnishing copies of registered print or label, Appendix, p. 643.

COPYRIGHT,

- distinction from trade-mark, 18.
- similarity of rules as to assignment, 117, note.
- dedication to public on expiration, 111.
- print and label act of 1874, 349.
- form of application for registration for an individual, Appendix, p. 645.
 - for a firm, Appendix, p. 645.
 - for a corporation, Appendix, p. 646.
- form of notice of copyright, Appendix, p. 645.
- necessity of notice of copyright, Appendix, p. 645.
- rules of patent office for registration, Appendix, pp. 635-648.
- international right to use prints or labels, Appendix, pp. 637-639.
- federal laws for the protection of prints or labels, Appendix, pp. 615-617.
 - renewal, Appendix, p. 616.
 - tenure, Appendix, p. 616.

[REFERENCES ARE TO SECTIONS.]

CORPORATIONS,

- acquisition by corporation, 80.
 - on succession, 124.
- protection of corporate name from unfair competition, 216.
- corporate names as trade-names, 167.
- trade-name containing name of individual as principal part of corporate name, 172.
- legislative incorporation of personal name as trade-mark, 70.
- conflicting corporate names as trade-names, 168.
- organization in different states, 174.
- unfair competition by incorporation under personal name similar to that of established competitor, 239.
- right to sue for infringement or unfair competition, 288.
- use of abbreviated names, 170.
- name conflicting with name of prior corporation, 176, 238.
- assignment of insolvent corporation as transfer of trade-mark, 149.
- application of rules as to adoption of personal names by corporations, 44.
- form of application for registration of print or label for a corporation, Appendix, p. 647.
- right of domestic corporation to registration of trade-mark under patent office rules, Appendix, pp. 620, 621.

CORRESPONDENCE,

- rules governing correspondence relating to registration of trade-mark, Appendix, pp. 618, 619.
- requirement that letter of advice accompany application for trade-mark, Appendix, p. 622.
- form of letter of advice to accompany application, Appendix, p. 630.
- rules governing correspondence relating to registration of prints and labels, Appendix, pp. 635, 636.

COSTA RICA,

- presidential proclamation of international copyright, Appendix, p. 638.

COSTS (see chapter xiv.),

- general rule that unsuccessful party pay, 327, and note.
- to avoid after notice, answer must aver cessation of infringing use, 292.
- discretion in chancery courts, 327.

[REFERENCES ARE TO SECTIONS.]

"COTTOLENE" (substitute for lard),

newly-coined word, 59.

infringed by "Cottoleo," 203.

not infringed by "Cotosuet," 206.

"COUGH CHERRIES" (confection),

valid use of common word as trade-mark, 36.

COUNTERFEITING (see "Infringement").

COURTS,

jurisdiction of federal courts in infringement cases, 286.

under act of 1881, Appendix, p. 614.

dependent on whether federal question is involved, 286.

dependent on amount in controversy, 286.

amount is value of trade-mark, and not amount of damages,
286, 291.

must be brought in district of defendant's residence, 286.

exclusive, where goods intended for exportation, 286.

concurrent jurisdiction of state and federal courts, 286.

diverse citizenship as determining jurisdiction as between state
and federal courts, 286.

necessity of answer conforming to rules of jurisdiction, 297.

suit against corporation must be brought in state of corpora-
tion's creation, 286.

declaration in action at law should explicitly state jurisdiction-
al facts, 295.

jurisdiction of state courts in suits for infringement, 287.

jurisdiction of infringement by Massachusetts courts, Appen-
dix, p. 715.

"CRAMP CURE" (medicine),

descriptive words invalid as trade-mark, 64.

"CREAM" (baking powder),

descriptive words, 64.

example of use of common word as trade-mark, 36.

"CRESYLIC" (acid),

descriptive words invalid as trade-mark, 64.

Trade-Marks—57.

[REFERENCES ARE TO SECTIONS.]

"CRYSTALLIZED EGG."

descriptive words invalid as trade-mark, 64.

CUBA,

residents entitled to benefit of copyright laws, Appendix, p. 639.

CUSTOM,

loss of custom may be shown on question of damages, 324.

CUSTOMERS' BRANDS,

acquisition of mark by manufacturer of goods, 84, and note.

CUSTOM OF TRADE,

infringement not excused by, 198.

CUSTOMS OFFICERS,

powers under act of 1897 as to infringement by importers, Appendix, p. 615.

"CUTICURA" (soap),

infringed by "Curative," 205.

not infringed by "Cuticle Soap," 206.

newly-coined word, 50.

unfair competition by use of similar package and dress, 279.

D.

DAMAGES (see chapter xiv.),

recovery of nominal damages, 324.

both nominal and exemplary damages may sometimes be had, 324.

exemplary damages for infringement, 324.

never awarded in equity, 326.

defendant's profits not recoverable at law, 324.

not necessary to preliminary injunction that damages be shown, 301.

fraud or fraudulent intent and injury necessary to recovery at law, 324.

English rule as to inquiry where injunction granted, 324.

[REFERENCES ARE TO SECTIONS.]

DAMAGES (Cont'd),

in United States, equity will administer full relief, including damages and profits, through master in chancery, 326, and note.

compensatory damages for infringement, 324.

ascertainment by jury, 325.

under English rule, on grant of injunction, plaintiff may elect as between damages and profits, 325.

recovery not defeated by fact that plaintiff had employed another mark, and had ceased to use the one infringed, 187.

not amount in controversy as determining federal jurisdiction, 286, 291.

recovery for infringement in action at law, 20.

sufficiency of declaration, 295.

measure where legal remedy sought, 324.

right where admission of acquiescence, 104.

loss of custom concurrently with infringement and fraudulent sales may be shown, 324.

federal act allowing recovery for infringement, Appendix, p. 605.

state legislation authorizing recovery for infringement, Appendix, pp. 649-825.

for fraudulent representations in application for trade-mark under federal act of 1881, Appendix, p. 613.

DAMNUM ABSQUE INJURIA,

application of doctrine to use of name by parties having common name, 42.

"DARLINGTON BUTTER."

joint ownership by succession to business, 158.

DATES, (see "Representations").**DECEIT (see "Deception").****DECEPTION (see "Fraud"; "Representations").**

essential of trade-mark that it be not deceptive, 35.

necessary to infringement that mark deceive, 16, 188.

infringement based on fact of deception, 23, 187.

duty of caution by purchaser of infringing article, 190.

[REFERENCES ARE TO SECTIONS.]

DECEPTION (Cont'd),

- purpose of trade-mark to prevent, 6.
- pictures not open to objection, 56.
- second user of common proper name restrained where deception likely, 43.
- sale of low-grade for high-grade goods of same manufacturer, 201.
- not sufficient to support injunction for unfair competition, injury to property right required, 305, note.
- materiality of false representations, 318.
- trade-mark not assignable where its use would deceive public, 143.
- deception practiced by claimant as defense to suit for infringement, 315-322.
- unnecessary to infringement that purchasing dealer was not deceived, 197.
- personal name as trade-mark not assignable where effect would be to deceive, 135.
- not a test of unfair competition that ignorant and careless persons may be deceived, 215.
- not necessary to injunction restraining infringement by refilling packages that public be actually deceived, 200.
- profits recoverable for unfair competition not limited to customers actually deceived, 326.
- descriptive words may not be used deceptively, 65.

DECLARATION,

- of claimant insufficient to lay foundation, 94, 99.
- rules of patent office as to requisites and sufficiency of declaration, Appendix, p. 623.
- rules of patent office governing the furnishing of declaration, Appendix, p. 628.
- necessity that declaration accompany application for trade-mark, Appendix, p. 622.
- filing declaration under act of 1870, Appendix, p. 604.
- may not be amended, substitute declaration must be filed, Appendix, p. 624.
- form by an individual to accompany application for trade-mark, Appendix, p. 630.
 - by corporation, Appendix, p. 634.
 - by a firm, Appendix, p. 632.

[REFERENCES ARE TO SECTIONS.]

DECLARATION (Cont'd),

- provision and requisites of declaration under federal act of 1881, Appendix, p. 611.
- who competent to take oaths to declarations, Appendix, p. 623.
- declarations between United States and other powers, see "Treaties."

DEDICATION,

- general use of name not a dedication to the public, 114.
- intent to abandon must be shown before dedication accrues, 102.
- to public on termination of right, 100.
- to public on expiration of patent, 110.
- to public on expiration of copyright, 111.

DEFACEMENT,

- state legislation prohibiting defacement of mark, Appendix, pp. 649-825.

DEFENSES (see chapter xiii.),

- general rules, 308.
- no exclusive right in claimant, 309.
- license to use name, 310.
- abandonment of mark by owner, 311.
- use of mark on different class of goods, 312.
- noninfringement, 313.
 - determination by comparison, 313.
- laches of complainant, 314.
- deception practiced by claimant, 315.
 - not necessary to deceptive statement that it be made with design to deceive, 315.
 - conflict of decisions as to character of representations, 315.
 - false statements on packages, 316.
 - false statements in advertisements, 317, and note.
 - false statements as to person by whom article manufactured, 318.
 - false statements of claimant as to place of manufacture, 319.
 - false statements as to materials used, 320.
 - false statements as to letters patent, 321.
 - materiality of misrepresentations, 322, and note.
- infringer may not escape by showing that he acted for another, 289.

[REFERENCES ARE TO SECTIONS.]

DEFENSES (Cont'd),

defenses to action for infringement by unauthorized use, 184.
in federal courts, necessity of negating fact of commerce with foreign nations or Indian tribes, where parties live in same state, 292.

DEFINITION,

trade-mark, 1, and note. 24, 25, 55, and note.
defined as one's commercial signature, 1.
personal and impersonal trade-marks, 31.
trade or commercial name, 160.
statutory definition of term "trade-mark," Appendix, pp. 660, 728, 738, 741, 767, 771, 792, 800.
word "print" used in copyright act, Appendix, p. 641.
statutory definition of term "article of merchandise," Appendix, p. 767.
construction of words "engraving," "cut," and "print," in print and label act, Appendix, p. 617.
word "label" used in copyright act, Appendix, p. 641.
terms used in Massachusetts trade-mark act, Appendix, p. 714.

DELAWARE,

legislation on subject, Appendix, pp. 671-673.

DELAY (see "Laches").

DEMURRER (see "Pleading").

DENMARK,

convention relating to trade-marks between Denmark and the United States, Appendix, p. 839.
member of International Union under Brussels act, Appendix, p. 840.
presidential proclamation of international copyright, Appendix, p. 638.

DEPOSIT.

rule of patent office as to deposit of copies of print or label offered for registration, Appendix, p. 639.

"DEPOT OF THE CELEBRATED PHILADELPHIA BEER,"

descriptive words invalid as trade-mark, 64.

[REFERENCES ARE TO SECTIONS.]

DESCRIPTION,

filing description of trade-mark under act of 1870, Appendix, p. 604.

under act of 1881, Appendix, p. 610.

DESCRIPTIVENESS.

necessity that device be descriptive in character, 61.

DESCRIPTIVE TERMS (see "Words"),

as subject to trade-mark, 35, 60, 63, 173.

where primary object to indicate origin or ownership, 63.

long user may make valid trade-mark, 4.

subsequent use by public of descriptive term adopted by maker of article, 39.

objection not obviated by showing that words were not actually descriptive, 65.

no objection that words are suggestive of quality, if not actually descriptive, 63.

not registrable, within federal act, 341, Appendix, p. 622.

not made registrable by misspelling, 341.

in foreign language, not made registrable, 341.

not made registrable, in combination with nonregistrable words, 341.

Canadian rule, 63.

unfair competition, 249-252.

use where secondary meaning acquired, 59.

Examples of allowable use of descriptive terms:

"Bethesda" (mineral water), 59, note.

"Camel-Hair Belting," 59.

"Cream" (baking powder), 64.

Examples of descriptive terms held invalid:

"Acid Phosphate" (medicinal compound), 64.

"Air Brush" (paint brush), 64.

"Aluminum" (metal), 64.

"Aromatic Schiedam Schnapps," 64.

"Best Six-Cord, 200 Yds." (thread), 64.

"Borax Soap" (soap), 64.

"Centennial" (medals), 64.

"Cherry Pectoral" (medicinal compound), 64.

"Clinton Hematite Red" (paint), 64.

"Club House" (gin), 64.

"Compressed Yeast," 64.

[REFERENCES ARE TO SECTIONS.]

DESCRIPTIVE TERMS (Cont'd).

- "Cramp Cure" (medicine), 64.
- "Cresylic" (acid), 64.
- "Crystallized Egg," 64.
- "Depot of the Celebrated Philadelphia Beer." 64.
- "Desiccated Codfish" (food), 64.
- "Dr. Johnson's Yellow Ointment" (medicine), 64.
- "Ferro Phosphorated Elixir of Calisaya Bark" (medicinal compound), 64.
- "Fire Board" (asbestos), 64.
- "Fire-Proof Oil" (illuminating oil), 64.
- "Fruit" (vinegar), 64.
- "Gold Medal," 64.
- "Goodyear Rubber" (rubber articles), 64.
- "Headache Wafers" (medicinal compound), 64.
- "Health Preserving" (corset), 64.
- "Hygienic" (underwear), 64.
- "Imperial" (beer), 64.
- "Indurated Fibre" (wood pulp), 64.
- "Instantaneous" (tapioca preparation), 64.
- "Iron Bitters" (medicinal compound), 64.
- "Julienne Soup" (food), 64.
- "Liver Medicine" (medicinal compound), 64.
- "Matzoon" (sterilized milk), 64.
- "Microbe Killer" (medicinal compound), 64.
- "Night-Blooming Cereus" (perfume), 64.
- "Nourishing Stout" (beer), 64.
- "Old London Dock" (gin), 64.
- "Old Well" (asbestos), 64.
- "One-Night Cough Cure" (medicinal compound), 64.
- "Paraffin Oil" (lubricant), 64.
- "Patent Roofing," 64.
- "P. B." (business sign), 64.
- "Perry's Medicated Mexican Balm" (medicine), 64.
- "Rye and Rock" (medicinal compound), 64.
- "Sarsaparilla and Iron" (medicinal compound), 64.
- "Selected Shore Mackerel," 64.
- "Snow Flake" (food product), 64.
- "Steel Clad" (shoes), 64.
- "Straight Cut" (smoking tobacco), 64.
- "Sweet Caporal" (cigarettes), 64.
- "Syrup of Figs" (medicinal compound), 64.
- "Taffy Tolu" (chewing gum), 64.

[REFERENCES ARE TO SECTIONS.]

DESCRIPTIVE TERMS (Cont'd),

"Thomsonian Medicines" (medical compound), 64.

"Trade-Mark--Best Soap" (soap), 64.

"Velno's Vegetable Syrup" (medicine), 64.

"Webster's Dictionary" (publication), 64.

"What Is It?" (candy), 64.

DEVIATION,

right of proprietor of trade-mark to materially deviate therefrom, 1.

DEVICES,

as subject of trade-mark, 1, 25.

must be distinctive in character, 61.

must avoid objection of being descriptive, 60.

use on other articles does not deprive one from use of similar device in trade-mark, 57.

arbitrary or fanciful mark requires nothing more on article, 3.

white selvage on worsted goods, 26.

octagonal carpet stick, 26.

pictures not open to objection of being descriptive or deceptive, 56.

combination of device and common word, 40, and note.

conventional diamond figure not infringed by representation of a radiant rough diamond, 206.

"DE YOUNGS,"

unfair competition in adoption by rival of business name, "The Youngs," 236.

DILIGENCE (see Laches").

DIMENSIONS,

letters or figures indicating dimensions as subject of trade-mark, 75.

DISCOVERY,

insufficient to sustain claim where mark not used, 92.

[REFERENCES ARE TO SECTIONS.]

DISCRETION.

in granting or refusing injunction, 301, 302, 307.
as to costs in chancery courts, 327.
of commissioner of patents as to registration, 333.

"DISQUE" (electrical term).

generic term, 112.

DISSIMILAR ARTICLES,

use of same trade-mark for dissimilar articles, 87, and note, 96.

DISSIMILARITY,

not sole test of unfair competition in use of labels, 254.

DISTINCTIVENESS,

necessity that trade-mark be distinctive, 2, 22, 25.

"DISTRICT MESSENGER BOY,"

unfair competition, 256.

DISTRICTS (see "Geographical Terms"), 60.

DOMESTIC COMMERCE,

marks used in domestic commerce not protected by act of 1881,
335.

DOMICILE,

of defendant as fixing jurisdiction of federal court, 286.
of owner of mark in United States essential to right of registra-
tion, 336.

"DOVER EGG BEATER,"

loss of right to mark by expiration of patent, 110.

DRAWING,

rule of patent office requiring drawing of mark to accompany
application, Appendix, p. 623.
governing sufficiency of drawing of trade-mark, Appendix,
p. 624.

[REFERENCES ARE TO SECTIONS.]

DRESS (see "Packages").

"DURHAM" (tobacco),

invalid use of geographical term, 67.
abandonment of trade-mark, 109.

"DURYEA STARCH,"

unfair competition, 236.

E.

"EAST INDIA" (remedy),

instance of geographical term invalid as trade-mark, 67.

"ELASTIC STARCH,"

not infringed by term "New Process Starch," with similar symbol, 206.

"EL CABIO" (tobacco),

fanciful name as trade-mark, 51.

"EL DESTINO" (brand of cigars),

fanciful name as trade-mark, 51.

ELECTION OF REMEDIES (see "Remedies").

"ELECTRO-SILICON" (polishing powder),

newly-coined word as trade-mark, 50.
infringed by "Electric Silicon," 205.

"ELGIN" (butter),

geographical term invalid as trade-mark, 67, note.

"ELGIN" (watch case),

unfair competition arising out of use of geographical names, 242.
discussed with reference to constitutionality of federal trade-mark acts, 332, 334.

EMPLOYEE (see "Master and Servant").

[REFERENCES ARE TO SECTIONS.]

EMPLOYERS' LIABILITY,

descriptive term not capable of exclusive appropriation, 173.

ENGLAND (see "Great Britain"),

rule as to remedy for infringement, 325.

loss of mark by expiration of patent, 110.

stringency of rule as to diligence, 109.

right to American trade-mark on article after expiration of English patent, 110.

rules governing transfer discussed in Leather Cloth Case, 145.

ENGRAVINGS (see "Pictures"),

penalties for having in possession engravings under federal penal act of 1876, Appendix, p. 608.

ENVELOPES,

penalties under federal penal act of 1876 for purchase and sale of trade-mark envelopes, Appendix, p. 608.

"EPICURE,"

application of rule as to priority of adoption, 87, and note.

EQUALITY OF QUALITY,

where article deceives, not important that quality is equal, 240.

EQUITY,

pleading, see "Pleading."

application of maxim of clean hands, 212, 315.

jurisdiction to direct and control use of a personal name, 46, 234.

equitable remedy for infringement commended, 290, 324.

"ESTABLISHED A. D. 1780" (drugs),

use of common word as trade-mark, 36.

right of partners to trade-mark on dissolution of firm, 126.

ESTATES OF DECEDENTS (see "Administration").

"EUREKA" (fertilizer),

use of common word as trade-mark, 36.

[REFERENCES ARE TO SECTIONS.]

"EVERY-DAY SOAP,"

unfair competition in use of similar package, 271.

EVIDENCE,

admissibility in actions for infringement, 195.

certificate as evidence under federal acts, Appendix, pp. 606, 612.

necessity that evidence show first appropriation and application of device by claimant, 3.

registration prima facie evidence of ownership, 346.

under federal act of 1881, Appendix, p. 613.

weight of expert evidence, as against inspection by court, 194.

admissibility of expert evidence to determine question of resemblance, 194, note.

EXAMINER OF PATENTS,

rules governing examination of application, Appendix, p. 625.

registration of print or label, Appendix, p. 640.

rules governing appeals, Appendix, p. 642.

rules of patent office as to registration of prints or labels, Appendix, p. 640.

jurisdiction of examiner after allowance, Appendix, pp. 626, 641.

"EXCELSIOR" (range),

use of common word, 36.

EXCLUSIVE USE,

exclusiveness of right in proprietor of trade-mark, 1.

adoption gives no exclusive right to protection of article, 11, 16.

personal name may become generic and incapable of exclusive use, 72.

necessity of exclusive appropriation to validity of trade-mark, 22.

EXECUTION,

trade-mark as subject to levy on execution, 154.

EXHIBITS (see "Pleading").

EXPERT EVIDENCE (see "Evidence").

EXPERTS,

not necessary to infringement that experts be deceived, 188.

[REFERENCES ARE TO SECTIONS.]

EXPRESS CHARGES,

rules requiring prepayment of matter sent to patent office, Appendix, pp. 619, 636.

"EXTRACT OF NIGHT-BLOOMING CEREUS,"

false statements as to ingredients as affecting relief for infringement, 320, 620.

ESTOPPEL (see "Infringement"; "Loss of Trade-Mark Rights").

F.

"FABRICA TABACOS,"

use in connection with other words or devices as creating a valid trade-mark, 40, and note.

FAC SIMILE,

rules of patent office as to fac similes, Appendix, pp. 604, 611, 623, 624, 628.

"FADETTE LADIES' ORCHESTRA,"

trade-name personal to individual, 181.

"FAIRBANKS' SCALES,"

loss of trade-mark at expiration of patent, 110, 112.

FANCIFUL NAMES (see "Names").

FEDERAL COURTS (see "Courts")

FEES.

for registration under federal acts, Appendix, pp. 611, 617, 628.

for registration of print or label, Appendix, pp. 643, 644.

to accompany application for registration, Appendix, pp. 623, 639.

repayment on refusal to register, Appendix, pp. 629, 644.

none required on review of decision of examiner, Appendix, pp. 627, 642.

credit of fees under federal act of 1881, Appendix, p. 612.

right of registrants under law declared unconstitutional to registration under later law without payment of additional fee, Appendix, p. 621.

[REFERENCES ARE TO SECTIONS.]

"FERRO-PHOSPHORATED ELIXIR OF CALISAYA BARK" (medicinal compound),

descriptive words invalid as trade-mark, 64.

"FIBRE CHAMOIS" (dress-lining fabrics),

example of use of common word as trade-mark, 36.

FICTITIOUS NAMES,

fact of use of fictitious name not a material misrepresentation, 322.

FIGURE (see "Numerals").

"FILO-FLOSS" (fabric),

newly-coined word, 50.

FINES,

for infringement of trade-mark under federal penal act of 1876, Appendix, p. 607.

"FIRE BOARD" (asbestos),

descriptive words invalid as trade-mark, 64.

"FIRE-PROOF OIL" (illuminating oil),

descriptive words invalid as trade-mark, 64.

FIRM NAMES (see "Names"; "Partnership").

"FISH BROS." (wagons),

joint ownership of trade-mark, 157, note.

FLAG,

unfair competition in use of advertising flag, 223.

FLORIDA,

legislation on subject, Appendix, pp. 673-682.

FLOUR BRANDS,

unfair competition by use of similar brand, 240.

[REFERENCES ARE TO SECTIONS.]

FOREIGN COMMERCE,

intent of federal acts to protect trade-mark used in foreign commerce, Appendix, p. 614.

FOREIGN LAWS,

tenure of certificate for articles not manufactured in this country, and receiving protection under foreign laws, Appendix, p. 612.

FOREIGN TRADE-MARK,

right of proprietor as against a prior domestic user, 89.
necessity to registration that mark be such as could be registered by citizen, Appendix, pp. 826-844.

FOREIGN WORDS (see "Words").**FORFEITURE OF RIGHT (see "Loss of Trade-Mark Right").****FORGERY,**

penalties under federal act for forgery of trade-mark, Appendix, p. 608.
forged trade-mark defined, Appendix, pp. 658, 688, 740.

FORM (see "Packages").**FORM OF ACTION,**

in actions involving trade-marks, trade-names, unfair competition, 290.

FORMS,

power of commissioner to prescribe form for assignment and transfer of trade-marks, Appendix, pp. 606, 614.
notice of copyright, Appendix, p. 645.
declaration of an individual to accompany application for trade-mark, Appendix, p. 631.
of firm, Appendix, p. 632.
of corporation, Appendix, p. 634.
statement by individual to accompany application, Appendix, p. 630.
by a firm, Appendix, p. 631.
by a corporation, Appendix, p. 633.

[REFERENCES ARE TO SECTIONS.]

FORMS (Cont'd),

application for registration of print or label for an individual,
Appendix, pp. 645, 646.

for a firm, Appendix, pp. 645, 647.

for a corporation, Appendix, pp. 646, 647.

amendment in application for registration of trade-mark, Ap-
pendix, p. 634.

letter of advice to accompany application, Appendix, p. 630.

FORMULAS,

fact of following original formula may be published by maker
of unpatented medicine, 231.

FRANCE,

holding of French courts as to device subject of trade-mark, 26.

convention concerning trade-marks, Appendix, pp. 829, 830.

member of International Union under Brussels act, Appendix,
pp. 840-843.

presidential proclamation of international copyright, Appendix,
p. 638.

"FRANCK CHICORY,"

unfair competition in dress and label on article, 281.

FRAUD (see "Deception"),

purpose of trade-mark to prevent fraud on manufacturer, 6.

underlying principle in actions involving trade-marks and un-
fair competition, 8, 9, 23, 24, 183, 208, 210.

as basis of unfair competition, 208, 210.

presumed in technical trade-mark cases, must be proved in cases
of unfair competition, 210.

inference of fraudulent intent where infringement is clearly
shown, 23, 183, 196.

recovery for infringement as dependent on proof of, 19, 24.

essential of trade-mark that it must not deceive, 35.

use of one's personal name as example of unfair competition,
233.

descriptive words deceptively applied, 65.

rule of laches in case of, 108.

by adoption of similar labels, 253.

deception practiced by claimant as defense to suit for infringe-
ment, 315.

[REFERENCES ARE TO SECTIONS.]

FRAUD (Cont'd),

- false statements as to person by whom article is manufactured as preventing relief, 318.
- no fraud in statement on wrapper, where formula given, 212.
- right to relief against unfair competition, where induced by plaintiff, 232.
- use of name as trade-mark to the exclusion of another bearing same name, 42.
- necessity of proof to warrant allowance of damages for infringement in action at law, 324.
- objection that words are descriptive, not overcome by showing that article did not contain ingredient, 35.
- use on dissimilar articles, where no misrepresentation, 96.
- as ground for protection in use of geographical names, 243.
- no relief for unfair competition, where plaintiff's act tainted with fraud, 212.
- use of union label, 85.
- immaterial to infringement that purchasing dealer not deceived, 197.
- effect of delay to prosecute as tending to mislead public, 109.
- necessity that fraudulent intention be averred in pleading, 295.

FREIGHT,

- rules requiring prepayment of matter sent to patent office. Appendix, pp. 619, 636.

FRONTISPIECE,

- of books, to be trade-mark, must be descriptive, 61.

"FRUIT" (vinegar),

- descriptive words, invalid as trade-mark, 64.
- denial of relief on ground of false statements as to ingredients, 320.

G.**"G.,"**

- as subject of trade-mark on expiration of patent, 110.

GAINS AND PROFITS (see "Account"; "Damages").

[REFERENCES ARE TO SECTIONS.]

"GALAXY PUBLISHING CO.,"

deception by claimant defeating right to relief, 315.

GAMES,

unfair competition in sale of games, 256.

GENERIC TERMS,

as subject to trade-mark, 35, 60.

expiration of patent, 228.

unfair competition in use of generic expression, 208.

acquiescence of original user, 112.

use of word as generic term as abandonment of right to mark,
102, 112.

general use of name does not dedicate it to public, 114.

test as to whether word once a trade-mark has become generic,
112.

is question of fact, 115.

use of Liebig meat extract by Royal Pharmacy making term gen-
eric, 72.

GENESSEE SALT CASE,

unfair competition in use of geographical name, 243.

"GENUINE YANKEE" (soap),

examples of common word as trade-mark, 36.

GEOGRAPHICAL TERMS,

as subject of trade-mark, 35, 60, 67.

may sometimes become a valid trade-mark, 4.

rule as to protection in use of names, 243.

names of places of business as trade-marks, 48.

general rule as to unfair competition by adoption of misleading
geographical names, 241.

protected where a secondary signification has arisen, 59, note,
242.

geographical words not registrable, 342.

exceptions to rule, 342.

rule of patent office as to registration, Appendix, p. 622.

arbitrary or fanciful use of term good only against one using in
same way, 67.

[REFERENCES ARE TO SECTIONS.]

GEOGRAPHICAL TERMS (Cont'd),

Instances of allowable use of geographical term:

- "Amoskeag" (fabric), 59, note.
- "Blue Lick Water" (mineral), 59, note.
- "Carlsbad" (mineral waters), 59, note.
- "Glenfield" (starch), 59.
- "N. Orleans Mead" (a drink), 59, note.
- "N. Y. Dental Rooms," 59, note.
- "Stone" (ale), 59.
- "Waltham" (watches), 59.

Instances of invalid use as trade-mark:

- "Clinton" (paint), 67, note.
- "Columbia," 67, note.
- "Durham," 67, note.
- "East India" (remedy), 67, note.
- "Genesee" (salt), 67, note.
- "Glendon" (iron works), 67, note.
- "Lackawanna" (coal), 67, note.
- "Moline" (plows), 67, note.
- "Sonman" (coal), 67, note.

Unfair competition:

- by adoption of word "Stone" in reference to ales, 244.
- in use of word "Yorkshire," 246.
- in use of word "Glenfield," 245.
- in use of term "Oxford," as denoting Bibles, 248.
- "Akron" misleading, on ground that article was not made at that place, 28.

GEORGIA,

statutes relating to subject, Appendix, pp. 682-685.

"GERMAN SWEET CHOCOLATE,"

infringed by "Germania Sweet Chocolate," 205.

GERMANY,

convention relative to trade-marks, Appendix, pp. 831, 832.
 presidential proclamation of international copyright, Appendix,
 p. 638.

"GERMEA" (cereal),

infringed by word "Germ," 205.

[REFERENCES ARE TO SECTIONS.]

"G. F.,"

infringed by "G. and F.," 53.

"GILKA KUMMEL,"

abandonment of mark by laches, 109.

"GLENDON" (iron works),

geographical term invalid as trade-mark, 67.

"GLENFIELD" (starch),

allowable use of geographical term, 59.

unfair competition in use of geographical term, 245.

"GOLD DUST" (soap),

unfair competition in use of similar wrapper, 267.

infringed by "Gold Drop," 205.

"GOLD MEDAL,"

descriptive words invalid as trade-mark, 64.

"GOLDEN LION,"

sustained as trade-name, 177.

GOLSH MATCH CASE,

assignment where public likely to be deceived, 143.

GOOD FAITH,

in adoption of corporate trade-name, 172.

use of individual name as trade-name, 161.

liability of persons ignorantly selling infringing article, 289.

"GOODYEAR" (rubber goods),

discussion of case with reference to right to trade-mark on expiration of patent, 110.

case discussed with reference to exclusive appropriation of descriptive name, 173.

descriptive words invalid as trade-mark, 64.

illustrative of defense of no exclusive right to trade-mark, 309.

[REFERENCES ARE TO SECTIONS.]

GOODWILL,

- use of personal name as trade-mark for contract term, 71.
- suit for infringement sustained on ground of valuable interest in goodwill, 12.
- trade-mark ingredient of goodwill, 1, 97, 116, note.
 - impersonal trade-mark, 33.
- statutory definition of term, Appendix, pp. 769, 791.
- on dissolution of partnership, goodwill sold conveys right to use impersonal trade-name, 166.
- rights as to use of trade-mark by partners on dissolution of firm, 127.

GRADE,

- terms designating grade as subject of trade-mark, 27, 62, 75.
- terms invalid where primary object to express grade, 27.
 - use of letter to indicate grade, 52.
 - use of numerals to indicate grade, 54.
- no objection to mark that secondary significance denotes grade, 29.

"GRANITE IRONWARE,"

- right to trade-mark on expiration of patent, 110.
- right of manufacturer to appropriate numerous trade-marks for same class of goods, 61.

"GRAPE-NUTS" (cereal food),

- not infringed by words "Grain-Hearts," 206.

GREAT BRITAIN (see "England"),

- trade-mark declaration between, and United States, Appendix, pp. 832, 833.
- member of International Union under Brussels act, Appendix, pp. 840-843.
- presidential proclamation of international copyright, Appendix, p. 638.

"GREAT MOGUL" (playing-card case), 15.

"GRENADE SYRUP,"

- examples of common word as trade-mark, 36.

[REFERENCES ARE TO SECTIONS.]

"GROSVENOR LIBRARY,"

sustained as trade-name, 177.

H.

"HALF AND HALF,"

in same class with pale ale, within registration act, 340.

HAWAII,

residents entitled to registration of prints and labels, Appendix,
p. 639.

HAZARD v. CASWELL,

right of partners to use trade-mark on dissolution of firm, 126.
compared with *Menendez v. Holt*, 128.

"HEADACHE WAFERS" (medicinal compound),

descriptive words invalid as trade-mark, 64.

"HEALTH PRESERVING" (corset),

descriptive words invalid as trade-mark, 64.

"HELIOTYPES,"

class within registration act, 340.

"HIGGINS LAUNDRY SOAP,"

unfair competition by use of similar package and name, 236.

"HIRES" (root beer),

unfair competition, 236.

HISTORY,

earliest trade-mark case, 14.

development of American trade-mark law, 16.

development of the English trade-mark law, 15.

trade-mark legislation, 328-351.

[REFERENCES ARE TO SECTIONS.]

"HOFF'S MALT EXTRACT,"

unfair competition in use of label, 264.

HOLLAND,

presidential proclamation of international copyright, Appendix,
p. 638.

member of International Union under Brussels act, Appendix,
pp. 840-843.

"HOME" (sewing machine),

example of common word as trade-mark, 36.
infringed by "Home Delight," 205.

"HOOSIER" (grain drills),

example of common word as trade-mark, 36.

"HOSTETTER'S STOMACH BITTERS,"

unfair competition by use of term "Histetter's Bitters," 277.

instance of term having become generic, 112.

unfair competition by use of similar package, 277.

infringement by refilling bottle, 200.

infringed by "Host-Style Bitters," 269.

unfair competition in use of similar bottle and labels, 268.

HOTELS,

trade-names, 177.

"HUMPHREY'S HOMEOPATHIC SPECIFICS,"

infringed by "Reeve's Improved Homeopathic Specifics," and
use of similar numbers to designate specifics, 55.

"HUNYADI WATER,"

loss of right to trade-mark. 102, 107, 108.

HUWER v. DANNENHOFFER.

right of partners to use trade-mark on dissolution of firm, 127.

compared with Menendez v. Holt, 128.

"HYGEIA" (mineral water),

joint ownership of trade-mark, 156.

[REFERENCES ARE TO SECTIONS.]

"HYGIENIC" (underwear),

descriptive words invalid as trade-mark, 64.

"HYGIENIQUES" (suspenders),

newly-coined word, 50.

I.

IDAHO,

statutes relating to subject, Appendix, pp. 685-689.

"IDEAL" (fountain pen),

examples of use of common word as trade-mark, 36.

IDEM SONANS,

infringement by use of similar sounding name, 194.

ILLINOIS,

statute relating to subject, Appendix, pp. 689-694.

IMITATION (see "Infringement"; "Unfair Competition").

"IMPERIAL" (beer),

descriptive words invalid as trade-mark, 64.

IMPERSONAL NAMES (see "Names").

IMPERSONAL TRADE-MARKS,

defined, 31.

examples of trade-marks personal in form, but alleged to be impersonal, 31.

great majority of trade-marks are impersonal, but not local, 33.

IMPORTATIONS,

acquisition of trade-mark by importer, 81.

limited importation to support claim, 91.

treaty authorization for seizure of infringing articles, Appendix, p. 842.

under the Brussels act. Appendix, pp. 840-843.

[REFERENCES ARE TO SECTIONS.]

IMPOSITION (see "Deception").

IMPRISONMENT,

for infringement of trade-mark under federal penal act of 1876,
Appendix, p. 607.

INDIANA,

statutes relating to subject, Appendix, pp. 694-698.

INDIANS,

marks used in commerce with Indian tribes protected by act of
1881, 335.

jurisdiction of congress to regulate trade-marks used in com-
merce with Indian tribes, Appendix, p. 614.

registration dependent on showing mark to be used in com-
merce with Indian tribes, Appendix, p. 621.

INDICATION (see "Origin or Ownership").

INDIVIDUAL RIGHTS,

enforcement of trade-mark doctrine not dependent on individual
rights, 10.

"INDURATED FIBRE" (wood pulp),

descriptive words invalid as trade-mark, 64.

INFRINGEMENT (see chapter ix.; see "Unfair Competition").

I. IN GENERAL.

earliest case involving question, 14.

infringing use of registered trade-mark, 345.

distinction between infringement of trade-mark and unfair
competition, 208.

effect of expiration of patent, 110.

effect of expiration of copyright, 111.

caution required of purchasers, 190.

purpose of trade-mark law to prevent imitation of distinc-
tive mark, 8, 9, 13.

doctrine preventing simulation not dependent entirely on in-
vasion of individual rights, 10.

trade-mark consisting of personal name not a guaranty that
goods were of individual manufacture, 138.

[REFERENCES ARE TO SECTIONS.]

INFRINGEMENT (Cont'd),

- right of trade-mark subject to test only on violation, 19.
- essence of wrong, sale of goods as those of another, 34, 187.
- classification of infringement, 183-186.
- necessity that use of personal name as trade-mark truthfully indicate origin or ownership, 45.
- adoption of mark confers no exclusive right to protection of article, 11, 16.
- infringement of trade-mark under federal act of 1881, Appendix, p. 613.
 - affords no protection to mark attached to goods used in unlawful business, Appendix, p. 613.
 - affords no protection to person using mark designed to deceive, Appendix, p. 613.
- federal act of 1870, Appendix, pp. 604-607.
- right to destroy infringing dies or packages under federal penal act of 1876, Appendix, p. 609.
- statutory definition of term, "imitation of trade-mark," Appendix, p. 768.
- statutory definition of term "forged trade-mark," Appendix, p. 689.
- federal act of 1897, prohibiting infringement by importers, Appendix, p. 615.
- state and territorial statutes governing matter, Appendix, pp. 649-825.
- treaties, conventions, and declarations between the United States and other powers protecting trade-marks, Appendix, pp. 826-844.
- convention and protocol between United States and other nations for protection of industrial property, Appendix, pp. 835-840.
- rules under Brussels act establishing International Union for protection of industrial property, Appendix, pp. 840-843.

II. WHAT AMOUNTS TO.

- general rule, 187.
- colorable imitation, 193.
- resemblance necessary to constitute infringement, 16, 188.
- discussion of cases holding that similarity must amount to false representation, 189.
- not necessary that any one has actually been deceived, 191, 197.

[REFERENCES ARE TO SECTIONS.]

INFRINGEMENT (Cont'd).

resemblance need not be such as would deceive experts, 188.
 intent to infringe unnecessary, 196, 210, 301.
 may appear from accessories, 192.
 not avoided by change of accessories, 204.
 infringing use must be on same class of goods, 202.
 manufacturer of labels or brands, 199.
 appearance of mark designed to indicate facts other than
 origin or ownership, 78.
 right of owner of name to use name as trade-mark to the
 exclusion of another bearing same name, 41, 42.
 no infringement where term has become generic, 112.
 use of like personal name of competing owners as infringe-
 ment of trade-mark, 74.
 rule preventing adoption of personal name as trade-mark
 is without application to corporations, 44.
 instances of infringement, 205.
 instances of noninfringement, 206.
 attachment of similar monogram to like package, 53.
 use of similar descriptive term by former employe, 59.
 conflicting corporate names, 168.
 refilling packages bearing genuine mark, 200.
 sale of low-grade for high-grade goods of same manufacture
 as infringement on mark, 201.
 use of similar picture to designate whiskey, 57.
 use of similar names and numerals, 55.
 use of similar geographical terms, 59.
 signs as unfair competition, 223.

III. DEFENSES.

application of rule of laches, 106-109.
 general rules as to defenses, 308.
 defenses to action for infringement by unauthorized use,
 184.
 knowledge by agent of infringement as amounting to ac-
 quiescence, 109.
 effect of clear infringement not avoided by use of infringer's
 name, 202.
 false statements as to ingredients, 320.
 false statements as to letters patent in trade-mark, 321.
 false statements on packages, 316.
 false statements as to place of manufacture, 319.

[REFERENCES ARE TO SECTIONS.]

INFRINGEMENT (Cont'd),

false statements, as to person by whom article is manufactured, 318.

false statements in claimant's advertisements, 317, note.

materiality of misrepresentations as defense, 322, note.

acquiescence as affecting remedy by injunction, 109.

IV. REMEDIES AND RELIEF.

not necessary to prevention that plaintiff have exclusive property, 10.

jurisdiction of federal courts, 286.

jurisdiction of state courts, 287.

jurisdiction does not rest alone on fraud, but right of property, 15-17.

form of action, 290.

procedure under state statutes, Appendix, pp. 649-825.

injunction to restrain infringement, 20, 303.

not necessary to injunction against manufacturer of labels that the labels be attached, 199.

redress at law or in equity, 323.

principle on which courts of equity proceed to protect, 19.

English rule, 325.

United States rule, 326.

recovery in equity is dependent on proof of fraud or inferiority of article, 19.

bill in equity, 291.

answers in suits, 292.

effect of demurrer in suits for infringement, 294.

bill for infringement of trade-mark may not be sustained as a bill to restrain unfair competition, 291.

parties plaintiff, 288.

parties defendant, 289.

parties entitled to injunction for infringement, 305, note.

abandonment not shown by averment of nonuser for one year, 105.

question may be determined by inspection, testimony not necessary, 193.

expert evidence may be admissible to determine question of resemblance, 194, note.

where mere comparison not sufficient to show infringement, other evidence of deception may be introduced, 195.

propriety of court's approval of new label on finding an infringement, 306.

[REFERENCES ARE TO SECTIONS.]

INFRINGEMENT (Cont'd).

- damages at law, 160, 324.
- punishment by fine and imprisonment under state statutes, 350.
- infringing defendant, a trustee for benefit of owner of mark infringed to extent of all profits, 326.
- costs, 327, and note.
- protection against infringement by state statutes, 350. Appendix, pp. 649-825.
- federal penal act of 1876 punishing infringement, Appendix, pp. 607-610.
 - penalties for having possession of dies, plates, or engravings, Appendix, p. 608.
- state statutory regulation of offense of counterfeiting trademark, Appendix, pp. 649-825.
- statutory provisions, act of 1870, allowing damages for infringement, Appendix, p. 605.
- federal act of 1881 not intended to take away existing remedies for infringement, Appendix, p. 613.

INHERITANCE.

- appropriation of trade-mark by heirs, next of kin, and successors in interest, 97, 130.
- use of family name amounting to unfair competition, 237.

INITIALS (see "Names").

INJUNCTION.

- the usually recognized remedy against infringement, 15, 16, 290.
- under state statutes, Appendix, pp. 649-825.
- sole adequate remedy where continuance of infringement intended, 301.
- protection against unauthorized or fraudulent use of union label, 85.
- not always matter of course, 302.
- question of intent as determining right to relief, 191, 301.
- jurisdiction based on property right, 23.
- refused where corporations having similar names were organized in different states, 174.
- not necessary in all cases when damages or profits allowed, 326.
- application of rule that equity will not enjoin against telling the truth, 132.

[REFERENCES ARE TO SECTIONS.]

INJUNCTION (Cont'd),

- against imitation of form of package, 266.
- against manufacturer of labels, 199.
- against unfair use of corporate name, 216.
- against sale of medicine under similar labels, 253.
- relief against unfair competition not defeated by fact that package was put up for other than defendant, 255.
- evasion in responding to bill or improbability of statement will induce grant of writ, 301.
- not defeated by ceasing to use infringing mark, 292.
- second user of common name restrained from its use, where fraud is apparent, 43.
- acquiescence in infringement as preventing relief, 109.
- oral statements amounting to unfair competition will justify relief, 220.
- general rules regulating preliminary injunctions, 301.
- primary purpose of preliminary, to protect manufacturer not purchaser, 301.
- preliminary, granted only where right clearly established, 270, 301, 302.
 - not necessary to show intent to infringe, 301.
 - not necessary to show damages, 301.
 - more readily granted where infringer recently commences business, 301.
- grounds for refusal of preliminary injunction, 302.
 - ownership of trade-mark must be shown, 301, 302.
- refused where defendant abandons use of infringing mark, 302.
- grant of preliminary injunction always, until answer or further order, 301.
- right as affected by delay, 109.
- parties entitled to, 305, note.
- showing to warrant relief for infringement by simulation, 185.
- facts constituting irreparable injury must be specifically averred, 291.
- bill against unfair competition must show deception, 221.
- sufficiency of bill to prevent unfair competition in sale of labels, 255.
- propriety of approval by court of new label on finding an infringement, 306.
- judgment requiring destruction of label erroneous where it could be lawfully used, 279.
- English rule requires election between damages and profits on establishment of right to relief, 325.

[REFERENCES ARE TO SECTIONS.]

INJUNCTION (Cont'd),

- undertaking on grant of interlocutory application, 301.
- violation of injunctive order, 304.
 - order forbidding use of word on bottle by use in certificate attached thereto, 301.
 - order against affixing. by use of prohibited words in advertisements, 304.
- review of order, 307.
- grant of permanent injunction, 303.

INSOLVENCY,

- assignment to trustee as transfer of trade-mark, 149.

INSPECTION,

- question of similarity may be determined by, testimony not necessary, 193, 313.
- proof of intent to deceive not necessary, where inspection discloses fact, 210.
- weight as between inspection and testimony of witness, 215.

"INSTANTANEOUS" (tapioca preparation),

- descriptive words invalid as trade-mark, 64.

INTELLIGENCE,

- presumptions of ordinary intelligence in unfair competition cases, 215.

INTENT (see "Abandonment"; "Infringement"),

- purpose of adoption of mark, 27.
- question as determining right to injunction, 301.
- to infringe unnecessary where wrongful use or simulation, 196.
- inference of fraudulent intent where infringement clearly shown, 23.

INTERFERENCE,

- rules for decision by commissioner, 347.
- rules of patent office as to declaration of, Appendix, p. 626.
- rules governing patents apply to interference in trade-marks, Appendix, p. 626.

[REFERENCES ARE TO SECTIONS.]

"INTERNATIONAL BANKING COMPANY,"

descriptive term incapable of exclusive appropriation, 173.

INTERNATIONAL CONVENTIONS (see "Treaties").

INTERNATIONAL LAW,

convention and protocol between the United States and other nations for protection of industrial property, Appendix, pp. 835-840.

Brussels act establishing International Union for protection of industrial property, Appendix, pp. 840-843.

establishment of international office for protection of industrial property, Appendix, p. 838.

INTERSTATE COMMERCE,

act of 1881 does not authorize registration of trade-mark used in interstate commerce, 335.

INVENTION,

not conclusive on right, use necessary, 4, 92.

acquisition of trade-mark by inventor of system, 86.

IOWA,

statutes relating to subject, Appendix, pp. 698-700.

"IRON BITTERS" (medicinal compound),

descriptive words invalid as trade-mark, 64.

IRREPARABLE INJURY (see "Pleading"; "Injunction").

"IRVING HOUSE,"

right to trade-name, 177.

ITALY,

presidential proclamation of international copyright, Appendix, p. 638.

member of International Union under Brussels act, Appendix, pp. 840-843.

declaration for protection of marks between Italy and the United States, Appendix, p. 835.

[REFERENCES ARE TO SECTIONS.]

"I. X. L. GENERAL MERCHANDISE AUCTION STORE,"

not infringed by words "Great I. X. L. Auction Company," 206.

J.

"JAEGER'S SANITARY WOOLEN SYSTEM,"

trade-mark in system, 86.

sale of inferior goods under similar name as unfair competition, 222.

JAPAN,

treaty between the United States and Japan, Appendix, p. 843.

member of International Union under Brussels act, Appendix, pp. 840-843.

"JOHNSON'S ANODYNE LINIMENT,"

unfair competition in use of similar bottles and wrappers, 268.

"JOHNSON'S YELLOW OINTMENT" (medicine),

instance of phrase becoming a generic term, 112, 113.

descriptive words invalid as trade-mark, 64.

JOINDER (see "Parties").

JOINDER OF CAUSES OF ACTION,

joinder in case of infringement, 299.

rule of multifariousness, 300.

advisability of including allegations of unfair competition in complaint, 299.

bill for injunction against infringement and for unfair competition may be maintained for latter on failure to establish right to former, 299.

JOINT OWNERSHIP (see chapter vii.),

allowable, 155.

arising by agreement, 156.

arising by transfer, 157.

on succession to business, 158.

on dissolution of partnership, 159.

not defeated by production of article in different localities, 156.

[REFERENCES ARE TO SECTIONS.]

"JULIENNE SOUP" (food),

instance of acquisition of trade-mark by importer, 81, note.
descriptive words invalid as trade-mark, 64.

JURISDICTION (see "Courts").

JURY,

English rule allows determination of damages, 325.

JUSTICES OF PEACE,

jurisdiction to enforce penalties for infringement, Appendix, p.
693.

K.

"K,"

surrounded by circle, invalid for failure to indicate name and
address of manufacturer, 3.

"KAISER" (beer),

example of common word as trade-mark, 36.

"KAISER MINERAL WATER,"

long use of term to describe goods preventing appropriation, 66.

KANSAS,

statutes relating to subject. Appendix, pp. 700, 701.

KENTUCKY,

statutes relating to subject, Appendix, p. 701.

"KENTUCKY COMFORT" (whiskey).

abandonment by delay, 109.

"KENTUCKY HEMP,"

geographical name not subject to exclusive appropriation, 60.

"KEYSTONE LINE."

protected as trade-name, 178.

KNOWLEDGE (see "Laches").

[REFERENCES ARE TO SECTIONS.]

L.

- LABELS (see "Union Labels"; "Prints and Labels"),
 - as subject of trade-mark, 79.
 - on imported article, 81.
 - infringement by manufacturer of label, 199.
 - unfair competition by imitation, 253-265.
 - copyright of labels under print and label act of 1874, 349.
 - effect of acquiescence in use of label, 109.
 - color as subject of trade-mark, 76.
 - judgment requiring destruction of label erroneous where label could be lawfully used, 279.
 - printer infringing labels as party defendant, 289.
 - dissimilarity not sole test of unfair competition, 254.
 - manufacturer's right to acquire mark in customer's brands, 84.
 - protection under state laws, 350.
 - state statutes, Appendix, pp. 649-825.
 - rules of patent office governing registration, Appendix, pp. 635-648.
 - form of application for registration of label for an individual, Appendix, p. 647.
 - for a corporation, Appendix, p. 647.
 - for a firm, Appendix, p. 647.
 - Examples of unfair competition in imitation of label:*
 - "Canadian Rye Whiskey," 257.
 - "Clarke's Thread," 263.
 - "Game of District Messenger Boy," 256.
 - "Hoff's Malt Extract," 264.
 - "Morse's Syrup of Yellow Dock," 261.
 - "Royal Baking Powder," 258.
 - "Saponifier," 259.
 - "Sarsaparilla & Iron," 265.
- LABOR UNIONS (see "Union Labels").
- LACHES (see "Loss of Trade-Mark Rights"),
 - discussion of cases involving abandonment by laches, 109.
 - as justifying denial of preliminary injunction, 302.
 - though insufficient to defeat injunction, may affect costs, 292.
 - effect of fraud on defense of laches, 109.
 - rule as to abandonment by laches where fraud and infringement apparent, 108.

[REFERENCES ARE TO SECTIONS.]

LACHES (Cont'd),

effect of knowledge of infringement, 109.

knowledge of agent of infringement as acquiescence, 109.

definite terms of delay as affecting rights against infringer, 109.

as depriving plaintiff of relief from unfair competition, 214.

"LACKAWANNA" (coal),

geographical name invalid as trade-mark; 67.

"LA FAVORITA" (brand of flour),

fanciful name as trade-mark, 51.

acquisition by selector of commercial article, 82.

infringement not avoided by insertion of infringer's name in mark, 203.

"LAMB KNIT GOODS COMPANY,"

estoppel by assent to use of name by another, 171.

"LATE WITH,"

not unfair competition to advertise one as late with another, 219.

"LA VENZOLANA" (flour),

abandonment by nonuser, 105.

LEATHER CLOTH CASE,

discussed, 145.

joint ownership of trade-mark arising by succession to business, 158.

"LEATHER GOODS,"

Massachusetts statute making stamp a warranty, Appendix, p. 715.

"LE-CLANCHE" (electrical term),

generic term, 112.

"LE PAGE'S LIQUID GLUE."

infringed by words. "Glue made by Le Page Company." 205.

[REFERENCES ARE TO SECTIONS.]

"LE PAGE'S LIQUID GLUE" (Cont'd),

infringed by introduction of word "Improved," 204.

infringement by putting low-grade goods in package intended for high-grade, 201.

LETTERS (see "Names").

as subject of trade-mark, 1, 52, 75.

combination of letters and figures, 55.

monogram formed from letters "A. G." infringed by monogram formed from letters "F. G.," where attached to similar package, 53.

Examples of letters as trade-marks:

"B. B. B.," 53.

"G. F." infringed by mark "G and F," 53.

"N. S.," 53.

"O. F. C." (whiskey), 53.

LICENSE,

to use mark by failure to claim right, 104.

as defense in action for infringement, 310.

to be effectual, must have come from actual owner, and be in force, 310.

to use individual name as trade-name, 164.

from individual partner to firm, 123.

exclusive licensee must be made party to suit for infringement, 288.

"LIEBIG'S EXTRACT OF MEAT,"

instance of personal name becoming generic, 72.

unfair competition by use of similar package and dress, 280.

"LIGHTNING" (hay knives),

example of common word as trade-mark, 36.

LIMITATIONS,

on common-law trade-marks, 25.

on use of common words as trade-marks, 35.

on use of personal name, where the name indicates source of manufacture, 234.

"LINDSEY'S IMPROVED BLOOD SEARCHER,"

personal name as part of trade-mark, 47.

[REFERENCES ARE TO SECTIONS.]

"LINOLEUM,"

loss of trade-mark by expiration of patent, 110.

LITERARY PROPERTY,

protection under the New Hampshire statute, Appendix, p. 748.

"LIVER MEDICINE" (medicinal compound),

descriptive words invalid as trade-mark, 64.

LOCAL TRADE-MARKS,

characteristics, 32.

"M. C." applied to tin plates produced at certain manufactory, 32.

Bethesda water, 32.

"Old Oscar Pepper Distillery," 32.

"Stillman Mill," applied to woolens manufactured at certain mill, 32.

Congress water, 32.

"LONE JACK" (tobacco),

fanciful name as trade-mark, 51.

infringed by use of like mark for cigarettes, 202.

LOSS OF TRADE-MARK RIGHTS (see chapter v.),

abandonment where term becomes generic, 72, 102, 112.

general rule of abandonment, 100.

Mellish test of *publici juris*, 112.

public property on termination of right to exclusive use, 100.

partial loss of right, 100.

intention to abandon is test, 101, 102.

readoption after abandonment, 101.

by alien through failure to suppress foreign infringement, 102.

registration as affecting question, 103, 113.

of particular symbol as abandonment of claim to use of variation, 103.

circumstances of each case must be considered, 104.

allowing dealer to place name on articles bearing trade-mark, 104.

acquiescence in use by manufacturer of similar article during existence of patent, 104.

[REFERENCES ARE TO SECTIONS.]

LOSS OF TRADE-MARK RIGHTS (Cont'd),

- admissions of acquiescence in complaint as concluding proprietor, 104.
- permitting mark to come into common use in trade, 104.
- shown by long use by others, 104.
- inference from knowledge and silence of proprietor, 104.
- fact of use of part of mark by others not necessarily, 104.
- wrongful use by infringer as abandonment, 104.
- nonuser, 105.
 - not shown by failure to use for one year, 105.
- laches, 106-109.
 - general discussion of cases, 109.
 - effect of fraud on question, 108.
 - rule where use is justified, 107.
 - English rule, 109.
 - twenty years' inaction as amounting to, 107.
- dedication to public by expiration of patent, 110.
 - by expiration of copyright, 111.
- acquiescence of original user necessary under modern rules, 113.
- general use of name does not deprive proprietor of rights, 114.
- fact of nonuser in particular locality does not amount to abandonment, 88.
- use of mark on different class of goods, 312.
- abandonment, as defense to suit for infringement, 311.
- estoppel arising from assent to use of trade-name by another, 171.

LOUISIANA,

- statutes relating to subject. Appendix, pp. 701-705.

M.

MACHINERY,

- where machinery has produced superior gains, trade-mark passes with sale of machinery, 136.

"MAGALE'S MONARCH WHISKEY,"

- transfer of personal name as trade-mark, 134, note.

"MAGNETIC,"

- not a material misrepresentation that preparation did not contain magnetic properties, 322.

[REFERENCES ARE TO SECTIONS.]

“MAGNETIC BALM” (medical compound),

example of common word as trade-mark, 36.

MAINE,

statutes relating to the subject, Appendix. pp. 705-711.

“MAIZENA” (grain food),

infringed by “Maizharina,” 205.

“MAIZENA” (corn flour),

newly-coined word as trade-mark, 50.

MANUFACTURED ARTICLES,

color of, as subject of trade-mark, 76.

MANUFACTURER,

acquisition by, 80.

right not exclusive, belongs to selector of article, 82.

exists in importer of article, 81.

acquisition by, in limited sense, 83.

may not acquire mark applied at request of purchaser, 84.

right of purchaser of manufactory to use trade-mark, 131.

MARK,

as subject of trade-mark, 1, 25.

MARKET,

necessity that article be on market, 94.

“MARVEL” (flour),

examples of common word as trade-mark, 36.

MARYLAND,

statutes relating to subject. Appendix. pp. 711-713.

“MARYLAND CLUB” (whiskey),

examples of common word as trade-mark, 36.

MASSACHUSETTS,

statutes relating to subject, Appendix. pp. 714-718.

[REFERENCES ARE TO SECTIONS.]

MASTER AND SERVANT,

personal liability of servant for infringement, 289.
 prevention of disclosure of trade secrets by employe, 217.
 servant engaging in business for himself may advertise fact of
 late employment with master, 219.

MASTER IN CHANCERY,

authority of master in chancery to administer redress, includ-
 ing damages and profits, 326, and note.

MATERIALITY (see "Representations").

MATERIALS,

as subject of trade-mark, 77.
 false statements as to materials used as defense to suit for in-
 fringement, 320.
 of package as subject of trade-mark, 79.

"MATZOGN" (sterilized milk),

descriptive words invalid as trade-mark, 64.
 instance of long use preventing appropriation, 66.

"M. C." (tin plate),

use of trade-mark by purchaser of manufactory, 131.
 example of local trade-mark, 32.

"McCARDEL HOUSE,"

right to trade-name, 177.

"McLANE'S LIVER PILLS,"

use of personal name as part of trade-mark, 47.
 example of impersonal trade-mark personal in form, 31.

MEASUREMENTS (see "Dimensions").

"MECHANICS' STORE,"

trade-name infringed by words "Mechanical Store," 206.

MEDICINAL PREPARATIONS,

manufacturer of unpatented medicine may publish fact of fol-
 lowing original formula, 231.
 maker of unpatented preparation known by name of another can-
 not appropriate name, 112.

[REFERENCES ARE TO SECTIONS.]

"MENEELY,"

instance of infringement of trade-name, 161.

MERCHANDISE,

province of trade-mark to certify to genuineness of article, 5, 6.

METHOD OF ADVERTISING (see "Advertisements").

MEXICO,

presidential proclamation of international copyright, Appendix,
p. 638.

MICHIGAN,

statutes relating to subject, Appendix, pp. 718-723.

"MICROBE KILLER" (medicinal compound),

descriptive words invalid as trade-mark, 64.

MILL,

right of proprietor to use name of mill as trade-mark, 132.

MINNESOTA,

statutes relating to subject, Appendix, pp. 723-731.

"MINNESOTA PATENT, MINNEAPOLIS,"

unfair competition by sale of inferior article made in another
city, 243.

MISREPRESENTATIONS (see "Representations").

MISSISSIPPI,

statutes relating to subject, Appendix, pp. 731, 732.

MISSOURI,

statutes relating to subject, Appendix, pp. 732-738.

MISSPELLING,

descriptive words not made registrable by misspelling, 341.

[REFERENCES ARE TO SECTIONS.]

"MOLINE" (plows),

geographical name invalid as trade-mark, 67.

"MOMAJA" (blend of coffee),

newly-coined word, 50.

infringed by word "Mojava," 205.

MONOPOLY,

personal name not subject of monopoly, to exclusion of person having same name, 68.

effect of expiration of patent on abandonment, 110.

trade-mark does not give monopoly in sale of goods other than those produced by owner, 60.

of material as giving broader rights to protection against unfair competition, 220.

MONTANA,

statutes relating to subject, Appendix, pp. 738-743.

"MONTSERRAT,"

geographical term invalid as trade-mark, 67, note.

"MORSE'S SYRUP OF YELLOW DOCK,"

unfair competition in use of label, 261.

MORTGAGES,

right to trade-mark on mortgage of lands and mill, 133.

"MOTTLED GERMAN" (soap),

example of common word as trade-mark, 36.

"MOXIE'S NERVE FOOD,"

unfair competition by use of similar packages, 273.

infringed by similar use of word "Noxie," 205.

MULTIFARIOUSNESS (see "Pleading").

"MUMM'S EXTRA DRY,"

unfair competition in use of similar dress and package, 274.

[REFERENCES ARE TO SECTIONS.]

N.

NAMES (see "Trade-Names"; "Words"),

personal trade-marks defined, 31.

designation of particular individual as characteristic, 31.

personal name as subject of trade-mark, 1, 41, 45, 60, 68.

personal name descriptive of medical preparation, 73.

personal name may become generic, 72.

"Liebig's Extract of Meat," 72.

use of personal name as trade-mark, for contract term, 71.

necessity of name and address of manufacturer as part of arbitrary mark or device, 3.

right of owner of name to use same, to the exclusion of person of same name, 41, 42, 74.

name and portrait as trade-mark, 47.

Examples of use of proper name as part of trade-mark:

"Ainsworth Thread," 47.

"Dr. J. M. Lindsey's Improved Blood Searcher," 47.

"Dr. McLean's Liver Pills," 47.

"Oakes' Candies," 47.

"Roger Williams' Long Cloth," 47.

"Storm's Liver Regulator," 47.

"Taylor's Persian Thread," 47.

names not personal, within rule preventing assignment of personal names as trade-marks, 139.

fanciful names as trade-marks, 51.

Examples of fanciful names as trade-marks:

"El Cablo" (tobacco), 51.

"El Destino" (brand of cigars), 51.

"La Favorita" (brand of flour), 51.

"Lone Jack" (tobacco), 51.

"Nickel-In" (brand of cigars), 51.

"Pharoah's Serpents" (fire works), 51.

"Sapota Tolu" (chewing gum), 51.

"Sorosis" (ladies' shoes), 51.

fact of use of fictitious names not a material misrepresentation, 322.

trade-mark consisting of name not a guaranty of individual manufacture, 138.

initials, as subject of trade-mark, 120, note.

newspapers and periodicals, 58.

[REFERENCES ARE TO SECTIONS.]

NAMES (Cont'd),

- use of like personal name of competing owners as infringement, 74.
- right to use personal name after sale and disuse of right by purchaser, 236.
- restraint of second user of common proper name, where fraud is apparent, 43.
- letters or numerals indicating name of article as subject of trade-mark, 75.
- jurisdiction of equity to direct and control use of personal names, 46.
- name may not be segregated from man himself and from business, 137.
- acquisition from predecessor of right to use name, 129.
- trade-mark in name of thing subject of patent, 110.
- impersonal names, 116.
- nom de plume as subject of trade-mark, 69.
- individual name as trade-name, 161.
 - impersonal name used by individual, 162.
- rules as to trade-names where firm name is impersonal, 166.
- name of business organization may at the same time be both a trade-name and a trade-mark, 160.
- firm names as subject of trade-name, 163.
- corporate names as subject of trade-names, 167.
- adoption of personal name by corporation, 44.
- legislative incorporation of personal name, 70.
- use of one's personal name as unfair competition, 233.
- "Singer Case" discussed with reference to unfair competition, 235.
- illustrations of unfair competition in use of personal name, 236.
- unfair competition in use of family name by descendant of original manufacturer, 237.
- unfair competition in similarity of corporate names, 238, 239.
- unfair competition in use of geographical names, 241-248.
- effect of clear infringement not avoided by use of infringer's name and address on mark, 203.
- fact that name on label not exact name of manufactory will not defeat injunction for infringement, 322, note.
- registration under act of 1870, Appendix, p. 605.

"NANSEN."

- unfair competition in imitation of book title, 230.

[REFERENCES ARE TO SECTIONS.]

"NATIONAL SYSTEM OF PENMANSHIP" (copy books),
examples of common word as trade-mark, 36.

NATURE,

validity of trade-mark composed of letters or numerals indicating nature of articles, 75.

NEBRASKA,

statutes relating to subject, Appendix, pp. 743, 744.

NEVADA,

statutes relating to subject, Appendix, pp. 745-748.

NEW HAMPSHIRE,

statutes relating to subject, Appendix, pp. 743-750.

NEW JERSEY,

statutes relating to subject, Appendix, pp. 751-761.

"NEW NORTHWEST" (periodical),

not infringed by title, "The Northwest News," 206.

NEW SOUTH WALES,

rule as to generic term, 112.

NEWSPAPERS (see "Periodicals"),

names as subject of trade-mark, 58.

unfair competition in imitation of newspaper name, 205, 229.

NEW YORK,

statutes relating to subject, Appendix, pp. 761-768.

"NEW YORK DENTAL ROOMS,"

sustained as trade-name, 177.

"NICKEL-IN" (brand of cigars),

fanciful name as trade-mark, 51.

"NIGHT-BLOOMING CEREUS" (perfume),

descriptive words invalid as trade-mark, 64.

[REFERENCES ARE TO SECTIONS.]

"NOM DE PLUME,"

as subject of trade-mark, 69.

NOMINAL DAMAGES (see "Damages").

NONUSER (see "Use"; "Loss of Trade-Mark Rights").

"N. ORLEANS MEAD" (a drink),

allowable use of geographical term as trade-mark, 59, note.

application of rule that assignee takes no better title than assignor had, 119.

NORTH CAROLINA,

statutes relating to subject, Appendix, pp. 768, 769.

NORTH DAKOTA,

statutes relating to subject, Appendix, pp. 769-772.

NORWAY,

member of International Union under Brussels act, Appendix, pp. 840-843.

NOTICE (see "Copyright"),

trade-mark as notice indicating origin, 1.

"NO-TO-BAC" (tobacco-habit cure),

newly-coined word, 50.

not infringed by words "Baco-Curo," 206.

no unfair competition by label of "Baco-Curo," 262.

"NOURISHING STOUT" (beer),

descriptive words invalid as trade-mark, 64.

"N. S." (cigars),

infringed by use of letters "N. and S.," 53.

NUMERALS.

as subject of trade-mark, 1, 54, 55, 75.

arbitrary numbers assorted with picture as valid trade-mark, 55.

on photograph cards as valid trade-mark, 55.

[REFERENCES ARE TO SECTIONS.]

NUMERALS (Cont'd),

- use of fractional figure on package as trade-mark, 55.
- use to designate quality, class, or style, not subject of trade-mark, 62.
- adoption of numerals to designate styles of buttons as valid trade-mark, 55.
- infringement of pens by use of numerals indicating high-grade on low-grade goods, 201.
- "2," "101," "32" (gutta-percha combs), a valid trade-mark, 55.
- "303" (pens), a valid trade-mark, 55.
- "830" as valid trade-mark when attached to hose, 55.

NUMEROUS TRADE-MARKS,

- right of manufacturer to adopt, 61, 93.

"N. Y. DENTAL ROOMS,"

- allowable use of geographical term, 59, note.

O.**"OAKES' CANDIES,"**

- personal name as part of trade-mark, 47.
- impersonal trade-mark, personal in form, 31.

OATH,

- necessity that oath accompany application for trade-mark, Appendix, p. 622.
- rule of patent office as to necessity and sufficiency of oath, Appendix, p. 623.
- competency of officer, Appendix, p. 623.

"O. F. C." (whiskey),

- letters as trade-mark, 53.

OFFICIAL GAZETTE,

- publication of registered trade-marks, Appendix, p. 628.
- publication of list of prints and labels, Appendix, p. 643.

OHIO,

- statutes relating to subject, Appendix, pp. 772-774.

[REFERENCES ARE TO SECTIONS.]

OKLAHOMA,

statutes relating to subject, Appendix, pp. 774-777.

"OLD COON SMOKING TOBACCO,"

unfair competition in use of dress and package of competing article, 283.

"OLD COUNTRY" (soap),

not infringed by words "Our Country," 206.

unfair competition in use of geographical name, 247.

denial of relief where complainants guilty of fraud, 212.

"OLD CROW" (whiskey),

examples of common word as trade-mark, 36.

"OLD LONDON DOCK" (gin),

descriptive words invalid as trade-mark, 64.

"OLD OSCAR PEPPER DISTILLERY,"

local trade-mark, 32.

"OLD SLEUTH" (publications),

example of common word as trade-mark, 36.

"OLD WELL" (asbestos),

descriptive words invalid as trade-mark, 64.

"OMEGA OIL MEDICATED SOAP,"

color of article and wrappers as subject of trade-mark, 76.

"OMEGA OIL,"

infringement by Omega Oil Soap, 96.

"ONE-NIGHT CORN CURE" (medicinal compound),

descriptive words invalid as trade-mark, 64.

"ONE-NIGHT COUGH CURE" (medicinal compound),

descriptive words invalid as trade-mark, 64.

"ONE-NIGHT CURE,"

not infringed by words "Beeshore's One-Night Cough Cure,"
206.

[REFERENCES ARE TO SECTIONS.]

OREGON,

statutes relating to subject, Appendix, pp. 778-780.

ORGANIC ARTICLES,

application of trade-mark to organic articles, 98, and note.

ORIGIN,

of trade-mark law, 7.

ORIGIN OR OWNERSHIP,

trade-mark must indicate origin or ownership of article to which it is affixed, 1, 2, 7, 25, 27, 28, 61, 62, 93, 208.

letters, 52, 75.

numerals, 54, 75.

arbitrary numerals with name of manufacturer, 55.

common words, 35.

personal names, 45.

indication may be direct or by association of mark with article, 3.

no objection that article has had wide sale, and thus indicates quality, 38.

appearance of mark designed to indicate facts other than origin or ownership as invalidating mark, 72.

"ORIOLE VERMILLION,"

not infringed by word "O. Vermillion," 206.

"OSBORNE HOUSE,"

trade-name, 177.

OWNERSHIP (see "Origin or Ownership").**"OXFORD,"**

unfair competition in use of word "Oxford" on Bibles printed elsewhere, 248.

[REFERENCES ARE TO SECTIONS.]

P.

PACKAGES (see "Bottles").

- as part of trade-mark to which applied, 26.
- form or construction of package as subject of trade-mark, 79.
- unfair competition by imitation of dress or form of package, 215, 268, 270.
- similarity of color of wrappers as unfair competition, 267.
- infringement of trade-mark by affixing similar monogram, 53.
- unfair competition in use of caps to bottles, 268.
- penalties for refilling packages under federal penal act of 1876, Appendix, p. 607.
- penalty for buying or selling boxes or packages to which trade-mark is affixed, Appendix, p. 608.

"PAIN KILLER" (medical compound),

- examples of common word as trade-mark, 36.

"PALE ALE,"

- in same class with "Half and Half." within registration act, 340.

"PARABOLA" (needles),

- examples of common word as trade-mark, 36.
- infringement not avoided by fact of insertion of infringer's name and address in mark, 203.

"PARAFFIN OIL" (lubricant),

- descriptive words held invalid as trade-mark, 64.

PARTIAL LOSS (see "Loss of Trade-Mark Rights").**PARTIES,**

- plaintiff in suits for infringement, 288.
- defendant in suits for infringement, 289.
 - vendor of infringing article, 289.
- to motion to punish for violation of injunctive order, 304.
- necessity that an exclusive licensee be made a party, 288.
- who entitled to injunction, 305, note.
- joinder of principal and agent or servant as defendants, 289.
- joinder of two or more persons or corporations as plaintiff where a common interest exists, 288.

[REFERENCES ARE TO SECTIONS.]

PARTNERSHIP,

- name of firm as trade-mark, 41, note.
- acquisition by individual partners, 80, 122.
 - by successors, 124.
- necessity of conveyance to new partnership, 122.
- partners remaining in firm entitled to firm trade-marks, 125.
- rights of partners on dissolution, 123, 125.
 - Huwer v. Dannenhoffer discussed, 127.
 - Hazard v. Caswell discussed, 126.
- joint ownership of trade-mark, 159.
- reversion of partners to individual rights to trade-name, 165.
- validity of license from individual partners, 123.
- assignment of trade-mark by outgoing party, 116.
- as party plaintiff in suits for infringement, 288.
- violation of injunctive order by agent or servant as contempt, 304.
- reversion of right to original partnership where grantees have ceased business, 83.
- use of information by an ex-partner as unfair competition, 218.
- presumptions that individual name appearing in firm name should continue during existence of partnership, 165.
- registration of trade-mark by firm under rules of patent office, Appendix, pp. 620, 621.
- form of application for registration of label for a firm, Appendix, p. 647.
- form of application for registration of print for a firm, Appendix, p. 645.

PATENTS (see "Commissioner of Patents").

- distinction from trade-mark, 18.
- dedication of mark to public by expiration of patent, 110.
- protection against unfair competition after expiration of patent, 227, 228.
- effect on right to trade-mark of failure to establish patent, 109.
- registration of trade-mark used on patented article, 343.
- right to perpetuate monopoly by trade-mark after patent declared void, 110.
- patentee has no right to exclusive use of designation as trade-mark, 110.
- false statements as to letters patent in trade-mark as defeating relief for infringement, 321.
- trade-mark assignable with letters patent, 121.

[REFERENCES ARE TO SECTIONS.]

PATENTS (Cont'd),

- unfair competition in sale of unpatented medicine preparations, 231.
- appropriation of name used to designate unpatented medical preparation, 112.
- registration in patent office of trade-marks under act of 1870, Appendix, pp. 603-607.

"PATENT: ROOFING,"

- descriptive words invalid as trade-mark, 64.

"P. B." (business sign),

- descriptive words invalid as trade-mark, 64.

"PEERLESS GREEN,"

- not infringed by "P. Green," 206.

PENALTIES,

- federal act of 1876 punishing infringement, Appendix, pp. 607-610.
- state legislation imposing penalties for infringement, Appendix, pp. 649-825.
- against persons aiding or abetting infringer under federal penal act of 1876, Appendix, p. 610.

PENNSYLVANIA,

- statutes relating to subject, Appendix, pp. 780-786.

PERIODICALS (see "Newspapers"),

- names as trade-marks, 58.
- injunction to restrain publication of magazine, 15.

"PERRY'S MEDICATED MEXICAN BALM" (medicine),

- descriptive words invalid as trade-mark, 64.

PERSONAL IN FORM, IMPERSONAL IN EFFECT,

- examples, 31.

PERSONAL NAME (see "Names").

[REFERENCES ARE TO SECTIONS.]

"PETTIJOHN" (breakfast food),

personal name not subject of trade-mark, 68.
 unfair competition in use of personal name, 233.

"PHAROAH'S SERPENTS" (fire works),

fanciful name as trade-mark, 51.

PHRASES,

as trade-marks, 51.
 in common use as subject of trade-mark, 34.

PICTURE,

as subject of trade-mark, 1, 56.
 in combination with numeral, 55.
 portrait and name as trade-mark, 47.
 long use of picture of animal to designate article as preventing appropriation, 66.
 use of same picture on other articles does not deprive one from use of similar picture in trade-mark, 57.
 trade-mark not rendered unassignable by fact of containing designer's portrait, 116.
 sale of wood cuts of trade-mark as transfer of trade-mark, 146.
 used as frontispiece to books must be descriptive, and not vary, 61.
 unfair use of picture on gum label, 57.
Instances of pictures used as trade-mark:
 "Bull's Head," as trade-mark for mustard, 57.
 "Chicken Cock" (whiskey), 57.
 cornucopia, printed on cakes of butter, 57.
 representation of elk on cigar labels, 57.

PILE—LECLANCHE (electric battery),

loss of right on use of term to designate name of article, 112.

PILLSBURY FLOUR CASE,

discussed with reference to false statements by claimants as to person by whom article is manufactured, 318.

"PILLSBURY'S BEST,"

unfair competition in sale of article under name "L. F. Pillsbury's Best Patent," 240.

[REFERENCES ARE TO SECTIONS.]

PIRACY (see "Infringement").

PLACES (see "Geographical Names").

PLEADING,

rules of pleading in state courts, 295, 298.

declaration or complaint at law in federal courts, 295.

should explicitly state jurisdictional facts, 295.

must allege fraudulent intent, 295.

in federal court, citizenship must be plainly averred, 291.

bill in equity, 291, 293.

statement of amount in controversy in bill in equity in federal court, 291.

is value of right infringed, not amount of damage suffered, 291.

facts constituting irreparable injury must be set forth, 291.

necessity for accurate description of trade-mark, etc., alleged to be infringed, 291.

bill must show continuance of infringement at time of filing bill, 291.

sufficiency of averment in suit involving successor's right to acquire use of name from predecessor, 129.

where bill for infringement of trade-mark will not be sustained as a bill to restrain unfair competition, 291.

answer in equity in suit for infringement, 292.

sufficiency of answer at law, 296.

necessity of averment of good faith by defendant, 292.

equity rules as to allowance of plea in equity, 293.

demurrer to bill, 294.

admissions by, 294.

demurrer at law, 297.

abandonment by nonuser not shown by averment of failure to use for one year, 105.

multifariousness, 300.

joinder of causes of action, 299.

necessity of attachment of fac simile as exhibit, 291.

"P. LORILLARD'S TUBEROSE."

not such similarity in label as to amount to unfair competition by "Peper's Smoking Tobacco." 260.

PORTO RICO.

residents entitled to benefit of copyright laws relating to registration of prints and labels. Appendix, p. 639.

[REFERENCES ARE TO SECTIONS.]

PORTRAIT (see "Pictures").

PORTUGAL,

member of International Union under Brussels act, Appendix, pp. 840-843.

presidential proclamation of international copyright, Appendix, p. 638.

POSITION,

letters or figures indicating position as subject of trade-mark, 75.

POSTAGE,

rules requiring prepayment of matter sent to patent office, Appendix, pp. 619, 636.

PRACTICE (see "Actions at Law"; "Pleading"; "Injunction"; "Remedies"; "Patents").

PRELIMINARY INJUNCTION (see "Injunction").

"PRESCOTT HOUSE,"

right to trade-name, 177.

"PRIDE" (whiskey),

example of common word as trade-mark, 36.

PRIMA FACIE EVIDENCE (see "Evidence").

PRIMARY FUNCTION,

necessity that primary function of mark indicate origin or ownership, 28, 52, 54, 61, 62, 75.

PRINTS AND LABELS,

act discussed with reference to trade-mark on labels, 349.

who may register, Appendix, pp. 637-639.

federal statutes, Appendix, pp. 615-617.

rules governing registration, Appendix, pp. 635-648.

definitions of words "prints and labels" in copyright law, Appendix, p. 641.

[REFERENCES ARE TO SECTIONS.]

PRIORITY,

of adoption as determining right to mark, 87, and note.

PROCESS,

service in actions brought in federal court, 286.

validity of trade-mark made of letters or numerals indicating process of manufacture, 75.

PROFITS (see chapter xiv.),

in federal and state courts regarded as element of damages, 326.

jurisdiction of American equity courts to allow damages and profits for infringement, 326, and note.

may not be recovered in action at law, 324.

rules for ascertainment for unfair competition, 326.

under English rule, plaintiff in injunction must elect between damages and profits, 325.

infringing defendant, a trustee for benefit of owner of mark infringed to extent of all profits, 326.

PROPERTY IN TRADE-MARK (see "Registration"),

sale and transfer (see "Transfer of Trade-Mark").

exclusive ownership of trade-mark, 1.

development of English law on subject, 15.

recognition of doctrine in America, 16.

right to use trade-mark as a property right, 15-18.

acquired only by adoption and use, 18, 90, 91.

invention without use confers no right, 92.

individual may own numerous marks, 93.

acquisition where mark not in use in particular localities, 88.

may not be acquired by manufacturer applying at request of purchaser, 84, 91.

right to use name and knowledge may not be taken by judicial proceeding, 152.

adoption on abandonment by a former proprietor, 101, 109.

priority of adoption, 87, and note 89.

reversion to original owners where grantees have ceased to do business, 83.

acquisition by person, firm, or corporation, 80, 288.

by individual partners, 122.

by importer, 81.

by inventor of system, 86.

[REFERENCES ARE TO SECTIONS.]

PROPERTY IN TRADE-MARK (Cont'd),

- successor may acquire right to use name, 129.
- as subject to levy upon execution, 154.
- inseparable from thing which gives it value, 136.
- jurisdiction to restrain infringement based on property right and unlawful use, 23.
- joint ownership (see chapter vii.).
- registration prima facie evidence of ownership, 346.
- readoption by proprietor after abandonment, 101.
- how mark may be applied, 98, and note, 99.
- union label as property right, 85.
- voice of public insufficient to appropriate trade-mark to individual, 95.
- right of proprietor of mill to use name as trade-mark, 132.
- declaration of claimant insufficient to lay foundation of right, 94.
- construction of act allowing registration to owners, 334.
- who may register trade-mark, within rules of patent office governing registration, Appendix, pp. 620-622.
- rule as to requirement that title of print or label must appear on copies filed for registration, Appendix, p. 639.
- registration as prima facie evidence of ownership under federal act, Appendix, p. 613.
- state legislation on subject, Appendix, pp. 649-825.

PROTECTION,

- purpose of trade-mark to protect manufacturer, 6, 9, 60.

PROTOCOL (see "Treaties").**PSEUDONYM (see "Nom de Plume").****PUBLICATION,**

- extensive publication of declaration insufficient, in absence of use, 94.

PUBLICITY,

- necessity of publicity as showing intention to adopt, 91.

PUBLIC POLICY,

- prevention of disclosures of trade secrets sustained on ground of, 217.
- union labels, 85.

[REFERENCES ARE TO SECTIONS.]

PUBLICI JURIS (see "Loss of Trade-Mark Rights").

power of public to appropriate trade-mark for individual, 95.

"PUDDINE,"

not subject to exclusive appropriation, 206.

denial of relief for infringement for false statements by claimants as to ingredients, 320.

PUNITIVE DAMAGES (see "Damages").

"PURE OLD RYE WHISKEY,"

material misrepresentation as to ingredients, 322.

Q.

QUALITY,

primary object to express quality does not make good trade-mark, 27.

no objection to trade-mark that its secondary significance denotes quality, 29, 37.

proper function of a trade-mark to assure as to quality, 30.

terms designating quality as subject of trade-mark, 62.

use of letters or numerals, 54, 75.

letter valid, though secondary use indicates, 52.

objection of suggestion of quality inapplicable to newly-coined word, 49.

no: an objection to use of word indicative of quality that article had had wide sale, 38.

QUESTIONS OF LAW AND FACT,

whether name has become generic is question of fact, 115.

R.

"RAHTJEN'S COMPOSITION" (paint),

right to trade-mark on expiration of patent, 110.

abandonment by delay in prosecuting infringer, 109.

RECIPES (see "Trade Secrets").

[REFERENCES ARE TO SECTIONS.]

RECIPROCITY,

international agreements governing foreign authors' rights in the United States, Appendix, p. 638.

"RED CROSS PLASTERS,"

infringed by other medicinal preparation of somewhat different form, 205.

REFEREE (see "Remedies").

REFILLING PACKAGES.

refilling packages bearing genuine mark as infringement of trade-mark, 200.

REGISTRATION,

as affecting question of abandonment, 103.

infringement of registered trade-mark, 345.

descriptive words not registrable, 341.

geographical words not registrable, 342.

trade-mark used on patented article, 343.

right given only to residents, 336.

denial of right to mark identical with other registered or known trade-mark, 338, Appendix, p. 622.

as determining jurisdiction as between federal and state courts, 286.

effect of assignment of invalid registered mark on right to injunction, 147.

construction of application for registration, 344.

construction of act with reference to filing statement of mode of affixing mark, 339.

discretion of commissioner of patents, 333.

exceptions to rule as to registration, 342.

federal act applicable only to marks used in commerce with foreign nations and with Indian tribes, 335, Appendix, pp. 611, 621.

construction of act as to allowance of registration to owners of trade marks, 334.

of particular symbol as limiting use, 103.

certificate, 343.

rule of patent office governing renewal, Appendix, p. 627.

rules of patent office governing issue, date, and duration of certificate, Appendix, p. 627.

[REFERENCES ARE TO SECTIONS.]

REGISTRATION (Cont'd),

- under federal act of 1870, Appendix, p. 606.
- statutory registration to limit common-law trade-mark, 21, 334.
- confusion of right at common law with right existing under registration statutes, 92.
- as prima facie evidence of ownership, 346.
- under state statutes, 350, Appendix, pp. 649-825.
- rules of patent office governing registration of trade-marks, Appendix, pp. 618-635.
- who allowed to register under patent office rules, Appendix, pp. 620-622.
- under treaties, Appendix, pp. 826-844.
- under federal act of 1881, 332, Appendix, pp. 610-614.
 - construction with reference to registration in name of applicant, 337.
 - form of certificate, Appendix, p. 612.
 - renewal, Appendix, p. 612.
 - does not authorize registration of union label, 334.
- fees, Appendix, p. 611.
- act 1882 allows registration of mark lawfully in use at passage of act of 1881, Appendix, p. 614.
- rules under act of congress of 1870, Appendix, pp. 603-607.
- federal act relating to registration of prints or labels, Appendix, p. 616.
 - allowed only where properly belonging to article, and descriptive thereof, and unless filed before publication, Appendix, pp. 641, 642.
 - rules of patent office, Appendix, pp. 635-648.
 - fees, Appendix, p. 617.
 - renewal of certificate, Appendix, p. 642.
 - rules of patent office as to issue, date, and duration of certificate, Appendix, p. 642.

REMEDIES (see chapter xiv.; "Action at Law"; "Damages"; "Injunction"; "Equity"),

- redress may be had either at law or in equity, 323, and note.
- but one form of action in most states, 326.
- for unfair competition, complainant limited to suit in equity, 323.
- in state courts, duties of master usually performed by referee, 326.
- under state statutes, Appendix, pp. 649-825.
- under federal act of 1881, Appendix, p. 613.

[REFERENCES ARE TO SECTIONS.]

REMEDIES (Cont'd),

act did not take away existing remedies, Appendix, p. 613.
 act of 1870 did not affect other remedies, Appendix, p. 606.
 mere use of like personal name by competing owners without
 legal remedy, 74.

"REMINGTON-SHOLES,"

unfair competition with Remington typewriter, 237.

RENEWAL,

of certificates of registration (see "Registration").

REPRESENTATIONS (see "Deception"; "Fraud"),

descriptive words not sustained as trade-mark, where misrep-
 resenting nature or origin, 65.
 similarity must amount to false representation, 189.
 dates on trade-marks as material, 322.
 deception of claimant preventing relief against infringement,
 315-322.
 false statements as to place of manufacture, 319.
 must be material, 318, 322, note.
 use of fictitious names not a material misrepresentation, 322.
 false as warranting restraint of second user of common proper
 name, 43.
 misrepresentations inducing registration renders party liable in
 damages for consequences under act of 1870, Appendix, p. 606.
 damages for fraudulent representations in procuring registra-
 tion of trade-mark under federal act of 1881, Appendix, p.
 613.

REPUTATION,

necessity of extended reputation to support, 91, and note.

RESEMBLANCE (see "Infringement").**RESIDENCE (see "Courts").****"REVERE HOUSE,"**

right to trade-name, 177.

"R. HENISH SONS,"

unfair competition in use of personal name, 236.

[REFERENCES ARE TO SECTIONS.]

RHODE ISLAND,

statutes relating to subject, Appendix, pp. 786-790.

"ROACH SAULT" (insecticide),

newly-coined word, 50.

"ROGERS BROS." (plated goods),

assignability where original proprietors supervise manufacture,
140.

acquisition by manufacturer in limited sense, 83.

"ROGER WILLIAMS' LONG CLOTH,"

use of personal name as part of trade-mark, 47.

"ROYAL" (baking powder),

common word as trade-mark, 36.

unfair competition in use of label, 258.

application of rule of priority of adoption, 87, note.

RULES,

right of commissioner of patents to formulate rules, Appendix,
pp. 606, 614.

of patent office governing registration of trade-marks, Appendix,
pp. 618-635.

registration of prints and labels, Appendix, pp. 635-648.

RUSSIA,

treaty with United States, Appendix, pp. 826-828.

"RYE AND ROCK" (medicinal compound),

of descriptive words invalid as trade-mark, 64.

S.

SALE (see "Transfer of Trade-Mark"),

fact of wide sale of article does not prevent use of word as valid
trade-mark, 38.

fraudulent sales may be shown on question of damages, 324.

trade-mark inseparable from thing which gives it value, 136.

province of trade-mark to bring seller and buyer together, 5.

unfair competition in sale of labels to plaintiff's competitors,
255.

[REFERENCES ARE TO SECTIONS.]

"SAMARITAN,"

not subject to exclusive appropriation, 206.

"SANITAS" (disinfectant),

infringed by phrase, "Condi-Sanitas," 205.

"SAPOLIO" (cleansing compound),

newly-coined word, 50.

unfair competition by use of similar package and dress, 276.

unfair competition in delivery of another article, where Sapolio called for, 224.

"SAPONIFIER" (concentrated lye),

newly-coined word, 50.

unfair competition in use of label, 259.

"SARATOGA,"

right to trade-name for restaurant, 177.

"SARSAPARILLA AND IRON" (medicinal compound),

descriptive words invalid as trade-mark, 64.

unfair competition in use of label, 265.

"S. B.,"

not infringed by initials "B. & S.," 206.

"SEA ISLAND COTTON,"

descriptive term not subject of trade-mark, 60.

SEARCH WARRANTS,

right to search for infringing dies or plates under federal penal act of 1876, Appendix, p. 609.

state legislation authorizing search warrants, Appendix, p. 660.

treaty authorization for seizure of infringing articles, Appendix, pp. 840-843.

SECONDARY MEANING,

secondary use to indicate quality or grade allowable, where primary use is authorized, 75.

letter invalid as trade-mark where secondary meaning indicates origin or ownership, 52.

[REFERENCES ARE TO SECTIONS.]

SECONDARY MEANING (Cont'd),

- no objection to trade-mark that its secondary significance denotes grade or quality, 29.
- use of descriptive or geographical words where they have acquired a secondary meaning, 4, 59, 242.
- unfair competition in adoption of descriptive words having a secondary meaning, 252.

SECRECY (see "Trade Secrets"),

- rule of patent office as to secrecy concerning pending application, Appendix, pp. 623, 640.

"SELECTED SHORE MACKEREL."

- descriptive words invalid as trade-mark, 64.

SELECTOR.

- acquisition by selector of commercial article, 82.

SERBIA.

- convention relating to trade-marks between Serbia and the United States, Appendix, p. 834.

"SHAW KNIT."

- infringed by word "Seamless," 205.

SIGNATURE.

- trade-mark as one's commercial signature, 1.
- necessity that fac simile or drawing of trade-mark be signed by proprietor as condition of registration, Appendix, p. 624.

SIGNS.

- as subject of trade-mark, 1.
- imitation as unfair competition, 223.

SILENCE (see "Acquiescence").

"SILEX."

- right of partners to use trade-mark on dissolution of firm, 127.

"SILICON."

- unfair competition by use of similar package, 275.

[REFERENCES ARE TO SECTIONS.]

SILVER,

Ohio statutes governing alloy. Appendix, p. 774.

"SIMMONS' LIVER MEDICINE,"

invalid use of personal name descriptive of medical preparation, 73.

unfair competition in use of similar package, 284.

SIMULATION,

unauthorized simulation of trade-mark as infringement, 133.

in what infringement by simulation consists, 185.

resemblance necessary to constitute infringement, 188, 189.

"SINGER" CASE,

registration of trade-mark used on patented article, 343.

unfair competition in use of personal name, 235.

dedication of trade-mark by expiration of patent, 110.

"SIX LITTLE TAILORS,"

sustained as trade-name, 178.

SIZE,

letters or numerals indicating size as subject of trade-mark, 75.

"SLICED OBJECTS" (games or puzzles),

examples of common word as trade-mark, 36.

"SNOW FLAKE" (food product),

descriptive words rejected as trade-mark, 64.

"S. N. PIKE'S MAGNOLIA WHISKEY, CINCINNATI, OHIO,"

impersonal trade-mark personal in form, 31.

SOCIETIES,

right to exclusive trade-name, 175.

"SOCIETY OF WAR OF 1812,"

confusion between names, 175.

"SONMAN" (coal),

geographical term invalid as trade-mark, 67, note.

[REFERENCES ARE TO SECTIONS.]

“SOROSIS” (ladies’ shoes),

fanciful name as trade-mark, 51.

SOUTH CAROLINA,

statutes relating to subject, Appendix, p. 790.

SOUTH DAKOTA,

statute relating to subject, Appendix, pp. 790-793.

SPAIN,

convention between, and United States, Appendix, p. 839.

presidential proclamation of international copyright, Appendix,
p. 638.

SPECIFIC USE,

essential to protection of trade-mark of use for specific purpose,
10.

“STAR” (furnishing goods),

examples of common word as trade-mark, 36.

infringed by star and crescent on like goods, 205.

“STAR” (brand on tobacco),

infringed by “Buzz Saw” brand, where symbol similar, 205.

STATEMENT,

sufficiency in application for trade-mark, Appendix, p. 622.

as part of application for registration of print or label, Appen-
dix, p. 639.

form of statement by a corporation to accompany application
for trade-mark, Appendix, p. 633.

by a firm, Appendix, p. 631.

by an individual, Appendix, p. 630.

rules of patent office relating to furnishing copies of statement,
Appendix, p. 628.

STATE NAMES,

protection in use of state name as against one manufacturing
similar article without state, 243.

[REFERENCES ARE TO SECTIONS.]

STATES,

laws for protection of trade-mark, 350, Appendix, pp. 649-825.

STATUTES (see Appendix).

"STEEL CLAD" (shoes),

descriptive words invalid as trade-mark, 64.

"STEEL SHOD" (shoes),

not infringed by words, "Steel Clad," 206.

"STILLMAN MILL" (woolens),

example of local trade-mark, 32.

"ST. LOUIS LAGER BEER,"

unfair competition by adoption of word "St. Louis" by New York brewer, 243, note.

"STONE ALE" CASE,

allowable use of geographical term, 59.

unfair competition, 244.

"STORM'S LIVER REGULATOR,"

personal name as part of trade-mark, 47.

"STRAIGHT CUT" (smoking tobacco),

descriptive words invalid as trade-mark, 64.

"STUART'S DYSPEPSIA TABLETS."

unfair competition by sale of preparation under name of "Dr. Stewart's Dyspepsia Tablets." 236.

STYLE,

letters or figures indicating style, as subject of trade-mark, 75.

SUBSTANCES,

material substances as subject of trade-mark, 77.

SUBSTITUTION,

of goods as unfair competition, 224.

[REFERENCES ARE TO SECTIONS.]

"SUN LIFE INSURANCE COMPANY,"

use of abbreviated name by corporation, 170.

"SUNLIGHT" (soap),

example of common word as trade-mark, 36.

infringed by words "American Sun Light Soap," 205.

"SUN LIGHT SELF-WASHER" (soap),

infringed by "Goodwin's Self-Washing Soap," 205.

SURNAMES (see "Names").

"SVENSKA SNUSMAGASINET,"

descriptive term as trade-name, 173.

"SWAN DOWN" (complexion powder),

example of common word as trade-mark, 36.

SWEDEN,

member of International Union under Brussels act, Appendix,
pp. 840-843.

"SWEET CAPORAL" (cigarettes),

descriptive words invalid as trade-mark, 64.

SWITZERLAND,

presidential proclamation of international copyright, Appendix,
p. 638.

member of International Union under Brussels act, Appendix,
pp. 840-843.

"SYKES' PATENT,"

illustrating nature of English trade-mark, 15.

SYMBOLS (see "Numerals"; "Pictures"),

as subject of trade-mark, 1, 25.

previous use, 66.

[REFERENCES ARE TO SECTIONS.]

"SYRUP OF FIGS" (medicinal compound),

descriptive words invalid as trade-mark, 64.

infringed by words "Improved Fig Syrup" on similar bottles and wrappers, 205.

"SYRUP OF RED SPRUCE GUM,"

use with picture held to constitute a valid trade-mark, 57.

T.

"TAFFY TOLU" (chewing gum),

descriptive words invalid as trade-mark, 64.

"TAYLOR'S PERSIAN THREAD,"

earliest American infringement case, 16.

personal name as part of trade-mark, 47.

"TEMPEST" (lantern),

not infringed by word "Hurricane," 206.

TENNESSEE,

statutes relating to subject, Appendix, pp. 793-797.

TENURE,

of trade-mark perpetual, unless lost by act or omission by appropriator, or by operation of law, 100.

of trade-mark under act of 1870, Appendix, p. 604.

under act of 1881, Appendix, p. 612.

of copyright, Appendix, p. 616.

of print or label, Appendix, p. 642.

state legislation on subject of tenure of trade-marks, Appendix, pp. 649-825.

rules of patent office governing issue, date, and duration of certificate of trade-mark, Appendix, p. 627.

TEST,

of validity to be made only on violation, 1, 19.

of abandonment, 101, 112.

of unfair competition, that ordinary purchasers would be misled, 215.

[REFERENCES ARE TO SECTIONS.]

'TEST (Cont'd),

to determine fraudulent intent in imitation of package, 266.
of trade-mark to indicate primary origin and ownership, 28.
not that extremely ignorant or careless person may be deceived,
215.

TEXAS,

statutes relating to subject, Appendix, pp. 797-800.

"THE GOOD THINGS OF LIFE" (publication),

not infringed by title, "The Spice of Life," 206.

"THE LITTLE SHOP,"

trade-name, 177.

"THELLER'S CELEBRATED STOMACH BITTERS,"

unfair competition in use of similar bottles and labels, 268.

"THE NATIONAL POLICE GAZETTE" (publication),

infringed by title, "United States Police Gazette," 205.

"THE SARATOGA,"

name both trade-mark and trade-name, 160.

"THE TYGERT ALLEN FERTILIZER CO.."

abandonment of right to mark by delay, 109.

"THOMSONIAN MEDICINES,"

nature of property in trade-mark, 16.
term having become generic, 112.
descriptive words invalid as trade-mark, 64.

THORLEY'S CASE,

unfair competition by descriptive words, 252.

TIMBER DEALERS,

statutes allowing adoption of trade-mark by, Appendix, pp. 773,
809.

[REFERENCES ARE TO SECTIONS.]

"TIN TAG" (plug tobacco),

right to trade-mark on expiration of patent, 110.

TITLE (see "Origin or Ownership"; "Property in Trade-Mark").

TORTS,

pleading in cases involving trade-marks same as in other cases of tort, 290.

"TOWER PALACE,"

trade-name affixed to particular building, 180.

TRADE-MARKS,

see "Table of Contents."

distinct from patent as to rights conferred, 16.

distinction between, and trade-names, 22.

and unfair competition, 16, 22, 24, 208.

and copyrights, 18.

"TRADE-MARK BEST SOAP" (soap),

descriptive words invalid as trade-mark, 64.

TRADE-NAMES,

I. IN GENERAL.

defined, 160.

considered and treated the same as trade-marks, 160.

confusion of cases as between, 160.

descriptive names, 173.

usually belongs to and follows business, 179.

individual name as trade-name, 161, 181.

impersonal name used by individual, 162.

presumption as to individual name appearing in firm name, 165.

firm name as trade-name, 163.

where firm name is impersonal, 166.

individual name used as principal part of corporate name, 172.

corporate names as trade-names, 167.

conflicting corporate name, 168.

corporation may acquire trade-name different from corporate name, 169.

names of corporations organized in different states, 174.

[REFERENCES ARE TO SECTIONS.]

TRADE-NAMES (Cont'd),

- corporation with name conflicting with name of prior corporation, 176.
- corporation may not be entitled to use abbreviated name, 170.
- where corporation is not of commercial or trading character, 175.
- unfair competition by use of nondescriptive trade-names, 250.
- names of places of business, 177.
- affixed to particular building or locality, 180.
- license to use individual name as trade-name, 164.
- miscellaneous trade-names, 178.
- infringed by use of similar names, 205.

II. REMEDIES AND RELIEF FOR INFRINGEMENT.

- distinction between actions involving trade-marks and trade-names, 22.
- elements of unfair competition usually present, 182.
- may be remedied either at law or in equity, 323.
- jurisdiction of federal courts, 286.
- jurisdiction of state courts, 287.
- injunction against innocent or accidental use by others, 160.
- deception by claimant as defense, 315-322.
- false statements in advertisements, 317.
- laches as defense, 314.
- estoppel arising from assent to adoption of corporate name, 171.
- liability of innocent vendor, 289.

TRADE SECRETS,

- as legal subject of property, 217.
- prevention of disclosure of trade secrets by employe, 217.
- loss of right where communicated to numerous parties, 144.

TRANSFER OF TRADE-MARKS (chapter vi.; see "Loss of Trade-Mark Rights"; "Property in Trade-Marks"; "Sales"),

- transfer of trade-mark by sale, 97.
- transfer of local trade-mark by transfer of manufactory or place of production, 32.
- acquisition by vendor, right not exclusive to manufacturer, 80.
- generally assignable with business in which used, 32, 33, 116.

[REFERENCES ARE TO SECTIONS.]

TRANSFER OF TRADE-MARKS (Cont'd),

- right of purchaser of business to trade-mark designed after sale of business, 116.
- assignment of right to use name, 116.
- transfer of surname which has become impersonal, 116.
- trade-mark not rendered unassignable by fact of containing designer's portrait, 116.
- separate instrument to transfer trade-mark, 116.
- trade-marks generally pass with business in which used, 116.
- assignment of trade-mark as an abstract right, 117.
- assignee acquires all rights of assignor, 118.
- has no better title than assignor, 119.
- assignment of name so as to deprive owner of its further use in connection with particular business, 120.
- trade-mark assignable with letters patent, 121.
- acquisition by individual partners, 122.
- acquisition by firm or corporation succeeding to business, 124.
- partners remaining in firm entitled to firm trade-mark, 125.
- right of partners to use of trade-mark on dissolution of firm. 126, 128.
- appropriation of trade-mark by successor, 129, 130.
- sale of manufactory conveys right to use trade-mark, 131.
- proprietor may use name of mill, 132.
- no exclusive right acquired by mortgagee of lands and mill, 133.
- transfer of personal name, 134.
- depends on effect produced by use, 135.
- assignee of right to use trade-mark must show original use to designate goods of certain quality or description, 137.
- personal trade-mark assignable where original proprietors supervise manufacture, 140.
- question of assignability depends on circumstances, 141.
- duty of assignee of trade-mark to indicate that he is assignee and purchaser, 142, 318.
- trade-mark not assignable where use would deceive public, 143.
- transfer apart from business confers no title on transferee, 144.
- discussion of English Leather Cloth Case, 145.
- sale of wood cuts as transfer of trade-mark, 146.
- effect of assignment of invalid registered trade-mark, 147.
- transfer by assignment in bankruptcy, 148.
- assignment to trustee of assets as transfer of trade-mark, 149, 150.
- no distinction between sale by proprietor and sale by assignee, 151.

[REFERENCES ARE TO SECTIONS.]

TRANSFER OF TRADE-MARKS (Cont'd),

- right to use name and knowledge not to be taken by judicial proceeding, 152.
- title of administrator of assignee, 153.
- as subject to levy by execution, 154.
- power of commissioner of patents to formulate rules governing the assignment, Appendix, pp. 606, 614.
- rules of patent office governing assignment, Appendix, p. 627.
- rules of patent office governing issuance of copy of assignment, Appendix, p. 628.
- rule of patent office requiring record of assignment, Appendix, pp. 627, 643.
- rule of patent office governing order for copy of assignment, Appendix, p. 643.

TREATIES,

- not self-executing, legislation required, 351.
- protecting trade-marks, 351, Appendix, pp. 826-844.
 - convention for protection of industrial property, Appendix, pp. 835-840.
 - most-favored-nation clause, Appendix, pp. 826-844.
 - protocol of closing of Brussels act, Appendix, pp. 840-843.

TRUSTS,

- infringing defendant, a trustee for benefit of owner of mark infringed to extent of all profits, 326.

"TUCKER SPRING BED."

- right to trade-mark on expiration of patent, 110.

TUNIS,

- member of International Union under Brussels act, Appendix, pp. 840-843.

"TWIN BROTHERS" (yeast),

- examples of common word as trade-mark, 36.

U.

UNDERTAKING, (see "Injunction").

"UNEEDA" (biscuit),

- newly-coined word, 50.
- infringed by "Iwanta," 205.

[REFERENCES ARE TO SECTIONS.]

UNFAIR COMPETITION,

I. IN GENERAL.

- distinction between actions involving trade-marks and unfair competition, 22, 24, 208.
- confusion with strict trade-mark case, 16, 28.
- identity of principle involving trade-marks and unfair competition, 23.
- usually present in trade-name cases, 182.
- rule rests on principle that no one may sell his own goods as those of another, 209.
- English rule as to unfair competition, 325.
- competition favored, but must be fair, 187, 207.
- adoption of mark confers no exclusive right to protection of article, 11, 16.
- in use of words descriptive of origin, 251.
- imitation of signs, 223.
- adoption of similar geographical mark, 67.
- in use of descriptive words, 249-252.
- unpatented medicine preparations, 231.
- substitution of goods, 224.
- imitating name of newspaper, 229.
- imitation of dress or form of package, 266-285.
- sale of labels to plaintiff's competitor, 255.
- use of corporate name, 216.
- rebinding cheap edition of books, 230.
- fraudulent imitation of book title, 230.
- retailer advertising himself as successor to wholesaler, 219.
- use of similar name, where name indicates source of manufacture, 234.
- incorporation under personal name, 239.
- use of family name by descendant of original manufacturer of article, 237.
- illustration of rule governing use of personal name, 236.
- use of information furnished by an ex-partner, 218.
- place of advertisement as affecting fraud, 226.
- disclosure of trade secrets, 217.
- confusion of sources of production by nondescriptive trade-names, 250.
- sale of inferior goods under similar name, 222.
- fraud as an element, 183, 208, 210.

[REFERENCES ARE TO SECTIONS.]

UNFAIR COMPETITION (Cont'd),

- confusion of case discussing infringement by use of geographical or descriptive term, 59.
- use of personal name as unfair competition, 233-240.
 - as trade-mark for contract term, 71.
 - in connection with advertising matter, 240.
- advertising one as "late with" not unfair competition, 219.
- one advertising himself as "late manager" enjoined, where false impression created, 219.
- use of name of employe having name of original manufacturer, 238.
 - from oral statements, 220.
- where article deceives, not important that quality equals that of competing article, 240.
- protection of name after expiration of patent, 227, 228.

II. REMEDIES AND RELIEF.

- jurisdiction of state courts, 287.
- equitable remedy exclusive, 323.
- not essential to injunction that infringement of technical trade-mark be shown, 208.
- form of action for infringement, 290.
- right to proceed for unfair competition on failure of suit for infringement, 299.
- interest of different persons as warranting joinder in suit. 288.
- pleading, 291.
- advisability of including allegations of unfair competition in complaint for infringement, 299.
- bill for infringement may not be sustained as a bill to restrain unfair competition, 291.
- relief where misrepresentation refers to articles not included in suit, 213.
- protection primarily for sufferer, and only incidentally for public, 215.
- injury to property rights sole basis for private suit for injunction, 305, note.
- fraud as ground for relief, 208.
 - not presumed, must be proved, 210.
 - proof of intent to deceive not necessary where goods on face calculated to deceive, 210.
- not necessary to relief that plaintiff should have an exclusive right, 211.

[REFERENCES ARE TO SECTIONS.]

UNFAIR COMPETITION (Cont'd),

- intent as determining right to relief by injunction, 301.
- relief where imitation will deceive purchasers, 254.
- not conclusive on question of deception, that certain persons were misled, 215.
- laches of complainant as depriving him of relief, 214, 314.
- acts induced by plaintiff as defense, 232.
- deception practiced by claimant as defense, 315, 317.
- essential to relief that plaintiff come into court with clean hands, 212.
- determination of defense of noninfringement by comparison, 313.
- rules governing recovery of profits are like those for infringement of trade-marks, 326.
- allowance of cost of manufacture in estimating profits, 326.
- profits not limited to sales in which customer actually deceived, 326.
- compliance with decrees, 239.
- review of order granting or refusing injunction, 307.
- Examples of unfair competition by imitation of dress or form of package:*
 - "Awl Package," 285.
 - "Baker's Breakfast Cocoa," 272.
 - "Black Package Tea," 278.
 - "Castoria," 266.
 - "Cuticura Soap," 279.
 - "Every-Day Soap," 271.
 - "Franck Chicory Case," 281.
 - "Gold Dust" (soap), 267.
 - "Hostetter's Celebrated Stomach Bitters," 268, 277.
 - "Leibig's Beef Extract," 280.
 - "Moxie's Nerve Food," 273.
 - "Mumm's Extra Dry," 274.
 - "Old Coon Smoking Tobacco," 283.
 - "Sapolio," 276.
 - "Silicon," 275.
 - "Simmon's Liver Medicine" Case, 284.
 - "Velvet Candy Wrapper," 282.

UNION LABELS.

- not technical common-law trade-marks, 85.
- acquisition by association whose members apply union labels, 85, and note.

[REFERENCES ARE TO SECTIONS.]

UNION LABELS (Cont'd),

protection under state statutes, 85, 350.
 right to registration under federal trade-mark act, 334.
 particular state statutes on subject, Appendix, pp. 649-824.

UNITED STATES (see "Treaties"),

member of International Union under Brussels act, Appendix,
 pp. 840-843.

UNITED STATES COMMISSIONER,

power to search and seize, federal penal act of 1876, Appendix,
 p. 609.

"UNIVERSAL" (printing press),

right to trade-mark on expiration of patent, 110.

UNLAWFUL BUSINESS,

no protection where attached to goods used in unlawful busi-
 ness, Appendix, pp. 606, 613.

"U. S. DENTAL ASSOCIATION,"

sustained as trade-name, 177.

USE,

acquisition by use, 90-92.
 by association, 4.
 application of mark by manufacturer at customer's request as
 use to sustain claim, 91.
 previous use of mark for like goods as preventing appropri-
 ation of marks, 66.
 long use by others as indicating abandonment, 104.
 necessity of sufficiency of use to point out origin, 93.
 right of prior domestic user, 89.
 unauthorized use as infringement, 183. (See "Infringement.")
 general use of name not a dedication to public, 114.
 by one as preventing adoption by another for different article,
 96.
 casual, insufficient to support claim, 91.
 abandonment by permitting mark to come into general use, 39,
 104.

[REFERENCES ARE TO SECTIONS.]

USE (Cont'd),

words and phrases in common use as subject of trade-mark, 34.
mere fact that mark not in use in particular locality gives no
right to appropriate, 88.

second user of common proper name restrained, where fraud
is apparent, 43.

assignment of trade-mark must be for continuous use on same
article or class of articles, 117.

UTAH,

statutes relating to subject, Appendix, pp. 800-802.

V.

"VALET,"

sustained as trade-name, 178.

VALUE,

trade-mark inseparable from thing which gives it value, 136.

"VALVOLINE" (lubricating oils),

newly-coined word, 50.

"VELNO'S VEGETABLE SYRUP" (medicine),

descriptive words invalid as trade-mark, 64.

instance of term becoming generic, 112, 113.

"VELVET CANDY WRAPPER,"

unfair competition in dress of article, 282.

VENDOR (see "Sales"; "Transfer of Trade-Mark").

VERMONT,

statutes relating to subject, Appendix, pp. 803-805.

VESSELS (see "Packages").

"VICHY,"

unfair competition in use of descriptive term, 251.

unfair competition by adoption of name by dealers in waters
from other springs, 243.

[REFERENCES ARE TO SECTIONS]

VINDICTIVE DAMAGES (see "Damages").

VIRGINIA,

statutes relating to subject, Appendix, pp. 806-809.

"VIRGINIA TOBACCO,"

descriptive phrase not subject of trade-mark, 60.

"VITAE-ORE" (medicinal preparation),

newly-coined word, 50.

infringed by "Vitalizing Ore," 205.

"VITASCOPE,"

unfair competition, 249.

"VONDERBANK HOTEL,"

right to trade-name, 177.

"VULCAN" (matches),

infringed by "Vulture," 205.

W.

"WALTHAM" (watches).

allowable use of geographical word, 59.

WARD'S LINIMENT CASE,

abandonment by acquiescence in use of term by others, 113.

"WARREN HOSE SUPPORTERS,"

examples of common word as trade-mark, 36.

infringed by words "Warrendon Hose Supporter," in connection with similar cut, 205.

WASHINGTON,

statutes relating to subject, Appendix, pp. 809-814.

"WASHINGTON HOTEL,"

trade-name, 177.

[REFERENCES ARE TO SECTIONS.]

"WEBER'S TEA,"

unfair competition, 220.

"WEBSTER'S DICTIONARY" (publication),

descriptive words invalid as trade-mark, 64.

form subject of trade-mark, 79.

loss of trade-mark by expiration of copyright, 111.

WEST VIRGINIA,

statutes relating to subject, Appendix, pp. 814-818.

"WEYMOUTH'S PATENT,"

right to trade-mark on expiration of patent, 110.

"WHAT CHEER,"

trade-name for hotel, 177.

"WHAT IS IT?" (candy),

descriptive words invalid as trade-mark, 64.

"WHEELER & WILSON CO.,"

English rules as to loss of trade-mark by expiration of patent,
110.

WHISKEY,

"Straight" and "Blended" in the same class within registra-
tion act, 340.

"WILCOX & GIBBS SEWING MACHINE,"

loss of mark by expiration of patent, 110.

WISCONSIN,

statutes relating to subject, Appendix, pp. 819-823.

WOOD CUTS,

sale of wood cuts as transfer of trade-mark, 146.

"WOODS HOTEL,"

trade-name, 177.

[REFERENCES ARE TO SECTIONS.]

- WORDS (see "Descriptive Terms"; "Generic Terms"; "Names"; "Geographical Terms"; "Phrases"),
- as subject of trade-mark, 1, 25.
 - in common use as trade-marks, 34.
 - general rule as to common words as trade-marks, 35.
 - previously used as mark for like goods not valid, 66.
 - objection that word is descriptive not overcome by showing that article did not contain ingredient, 35.
 - right to adopt foreign words descriptive of quality, 63.
 - Canadian rule as to adoption of descriptive words, 63.
 - word a valid mark, though it has become ordinary appellation of article, 39.
 - common words must be arbitrary or fanciful, 37.
 - descriptive words in foreign languages not registrable, 341.
- Examples of common words as trade-marks:*
- "Akron Dental Rubber" (dental articles), 36.
 - "Anti-Washboard" (soap), 36.
 - "Bismarck" (paper collar), 36.
 - "Champion" (flour), 36.
 - "Congress" (mineral water), 36.
 - "Cough Cherries" (confection), 36.
 - "Cream" (baking powder), 36.
 - "Established 1780" (drugs), 36.
 - "Eureka Fertilizer," 36.
 - "Excelsior" (range), 36.
 - "Fibre Chamois" (dress-lining fabric), 36.
 - "Genuine Yankee" (soap), 36.
 - "Grenade Syrup," 36.
 - "Home" (sewing machine), 36.
 - "Hoosier" (grain drills), 36.
 - "Ideal," (fountain pens), 36.
 - "Kaiser" (beer), 36.
 - "Lightning" (hay knives), 36.
 - "Magnetic Balm" (medical compound), 36.
 - "Marvel" (flour), 36.
 - "Maryland Club" (whiskey), 36.
 - "Mottled German" (soap), 36.
 - "National System of Penmanship" (copy books), 36.
 - "Old Crow" (whiskey), 36.
 - "Old Sleuth" (publications), 36.
 - "Pain Killer" (medical compound), 36.
 - "Parabola" (needles), 36.
 - "Pride" (whiskey), 36.
 - "Royal" (baking powder), 36.
 - "Sliced Objects" (games or puzzles), 36.

[REFERENCES ARE TO SECTIONS.]

WORDS (Cont'd),

"Star" (shirts and furnishing goods), 36.

"Sunlight" (soap), 36.

"Swan Down" (complexion powder), 36.

"Twin Brothers" (yeast), 36.

"Warren Hose Supporter," 36.

"Yankee" (soap), 36.

use of coined word by public to describe article as involving loss to coiner, 39.

newly-coined words as trade-mark, 39, 49.

Examples:

"Asepsin" (antiseptic compound), 50.

"Bromidia" (medical compound), 50.

"Bromo-Caffeine" (medical preparation), 50.

"Celluloid" (compound of pyroxyline), 50.

"Chatterbox" (name of publication), 50.

"Cocaine" (hair wash), 50.

"Cottolene" (substitute for lard), 50.

"Cuticura" (toilet soap), 50.

"Electro-Silicon" (washing compound), 50.

"Filo-Floss" (fabric), 50.

"Hygieniques" (suspenders), 50.

"Maizena" (corn flour), 50.

"Momaja" (blend of coffee), 50.

"No-to-bac" (tobacco habit cure), 50.

"Roach Sault" (insecticide), 50.

"Sapolio" (cleansing compound), 50.

"Saponifier" (concentrated lye), 50.

"Uneeda" (biscuit), 50.

"Valvoline" (lubricating oils), 50.

"Vitae-Ore" (medicinal preparation), 50.

infringement of coined words, 205.

WRAPPERS (see "Labels").

WYOMING,

statutes relating to subject, Appendix, pp. 823-825.

Y.

YANKEE (soap),

example of common word as trade-mark, 36.

abandonment by delay in prosecution of infringement, 109.

YORKSHIRE RELISH CASE,

unfair competition in use of geographical term, 246.