of the divisional justices of the said district, and elsewhere in Ireland of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions:

The expression "fifth section of the Debtors Act, 1869," shall be construed to mean "sixth section of Debtors Act (Ireland), 1872."

CHAPTER 91.

An Act to establish a Register of Trade Marks. [13th August 1875.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Registration of trade marks.

1. A register of trade marks as defined by this Act, and of the proprietors thereof, shall be established under the superintendence of the Commissioners of Patents, and from and after the first day of July one thousand eight hundred and seventy-six a person shall not be entitled to institute any proceeding to prevent the infringement of any trade mark as defined by this Act until and unless such trade mark is registered in pursuance of this Act.

Characteristics of registered trade mark.

2. A trade mark must be registered as belonging to particular goods, or classes of goods; and when registered shall be assigned and transmitted only in connexion with the goodwill of the business concerned in such particular goods or classes of goods, and shall be determinable with such goodwill, but subject as aforesaid registration of a trade mark shall be deemed to be equivalent to public use of such mark.

Title of first proprietor of a trade mark.

3. The registration of a person as first proprietor of a trade mark shall be primâ facie evidence of his right to the exclusive use of such trade mark, and shall, after the expiration of five years from the date of such registration, be conclusive evidence of his right to the exclusive use of such trade mark, subject to the provisions of this Act as to its connexion with the goodwill of a business.

Title of proprietor claiming by transmitted proprietorship.

4. Every proprietor registered in respect to a trade mark subsequently to the first registered proprietor shall, as respects his title to that trade mark, stand in the same position as if his title were a continuation of the title of the first registered proprietor.

Rectification of register.

5. If the name of any person who is not for the time being entitled to the exclusive use of a trade mark in accordance with this Act, or otherwise in accordance with law, is entered on the register of trade marks as a proprietor of such trade mark, or if the registrar refuses to enter on the register as proprietor of a trade mark the name of any person who is for the time being entitled to the exclusive use of such trade mark in accordance with this Act, or otherwise in accordance with law, or if any mark is registered as a trade mark which is not authorised to be so registered under this Act, any person aggrieved may apply in the prescribed manner for an order of the court that the register may be rectified; and the court may either refuse such application, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may award damages to the party aggrieved.

Where each of several persons claims to be registered as proprietor of the same trade mark, the registrar may refuse to comply with the claims of any of such persons until their rights have been determined by the court, and the registrar may himself submit or require the claimants to submit in the prescribed manner their rights to the court.

The court may, in any proceeding under this section, decide any question as to whether a mark is or is not such a trade mark as is authorised to be registered under this Act, also any question relating to the right of any person who is party to such proceeding

to have his name entered on the register of trade marks, or to have the name of some other person removed from such register, also any other question that it may be necessary or expedient to decide for the rectification of the register.

The court may direct an issue to be tried for the decision of any question of fact which may require to be decided for the purposes of this section.

Whenever any order has been made rectifying the register the court shall by its order direct that due notice of such rectification be given to the registrar.

Restrictions on registry of trade marks.

6. The registrar shall not, without the special leave of the court, to be given in the prescribed manner, register in respect of the same goods or classes of goods a trade mark identical with one which is already registered with respect to such goods or classes of goods, and the registrar shall not register with respect to the same goods or classes of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or classes of goods as to be calculated to deceive.

It shall not be lawful to register as part of or in combination with a trade mark any words the exclusive use of which would not, by reason of their being calculated to deceive or otherwise, be deemed entitled to protection in a court of equity; or any scandalous designs.

Establishment of registry and general rules.

7. Subject as aforesaid, a register office shall be established from and after such time (not being later than the first day of January one thousand eight hundred and seventy-six), in such manner and with such officers, and at such salaries, to be paid out of moneys provided by Parliament, as the Lord Chancellor may, with the consent of the Treasury, direct; and the Lord Chancellor may from time to time, with the assent of the Treasury as to fees, make, and, when made, alter, annul, or vary, such general rules as to the registry of trade marks, and as to notices to be given by advertisement before the registration of trade marks, and as to the classification of goods for the purposes of this Act, and as to the registration of first and subsequent proprietors of trade marks, and as to the fees to be charged for registration, and also for the continuance of a trade mark on the register or otherwise, and as to the removal from the register of any trade mark, as to notices, and as to the persons entitled to inspect the register, and as to any proceedings to be taken to obtain the judgment or leave of the court in any matter in which the judgment or leave of the court is required to be obtained under this Act, and generally for the purpose of carrying into effect this Act, as he may deem expedient.

Any rules made in pursuance of this section shall be laid before both Houses of Parliament if Parliament be then sitting, or if not then sitting, then within ten days from the then next assembling of Parliament, and shall be of the same validity as if they had been enacted by Parliament; provided that if either House of Parliament resolve, within one month after such rules have been laid before such House, that any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall, after the date of such resolution, cease to be of any force, without prejudice, nevertheless, to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

Certificate of registrar to be evidence.

8. The certificate of the registrar as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be evidence of such entry having been made, and of the contents thereof, and of such matters and things having been done or left undone.

Provision as to Cutlers Company and Sheffield corporate marks.

9. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called "the Cutlers Company"), and the marks or devices (in this Act called "Sheffield corporate marks") assigned or to be assigned by the master, wardens, searchers, and assistants of that company, be it enacted as follows:

(1.) Within the prescribed time and in the prescribed manner the Cutlers Company shall at their own expense deliver to the registrar under this Act copies of all Sheffield corporate marks in force at the time of such delivery:

(2.) When any person, after the passing of this Act, applies to the said master, wardens, searchers, and assistants to assign to him any mark or device, notice of such application, with a copy of such mark or device, shall, within the prescribed time and in the prescribed manner, be delivered to the registrar under this Act; and such mark or device shall not be assigned until after the expiration of the prescribed period from the giving of such notice. In like manner, when any person applies for the registration under this Act of a trade mark as belonging to any goods or class of goods specified in section two of the Cutlers Company's Act of 1860, notice of such application, with a copy of such trade mark, shall, within the prescribed time and in the prescribed manner, be delivered to the Cutlers Company; and such trade mark shall not be registered until after the expiration of the prescribed period from the giving of the last-mentioned notice:

(3.) Upon the assigning of any such mark or device, or the registration of any such trade mark as aforesaid, notice of the assignment or registration shall, within the prescribed time and in the prescribed manner, be given to the registrar under this Act, or to the Cutlers Company, as the case may be:

(4.) The registrar under this Act, without the special leave of the court, to be given only in cases where the applicant proves his right, shall not in respect of any goods or classes of goods with respect to which a Sheffield corporate mark shall have been assigned and actually used, and of which mark a copy or description or notice of the assigning whereof shall have been delivered or given to the registrar as aforesaid, register a trade mark identical with such Sheffield corporate mark, or so nearly resembling the same as to be calculated to deceive:

(5.) The master, wardens, searchers, and assistants of the Cutlers Company shall not assign to any person a mark or device identical with any trade mark registered under this Act, and notice of the registration whereof shall have been given to the Cutlers Company as aforesaid, or so nearly resembling the same as to be calculated to deceive:

(6.) Any person to whom a Sheffield corporate mark legally belongs shall be entitled to have the same mark registered also as a trade mark under this Act, in respect of any particular goods or classes of goods, in the same manner and upon the same terms and conditions in and upon which he might have registered the same if it were not a Sheffield corporate mark:

(7.) Nothing in this Act shall prejudice or affect the rights and privileges of the Cutlers Company, nor, save as is otherwise in this Act expressly provided, shall any of the provisions of this Act apply to or in the case of any Sheffield corporate mark.

10. For the purposes of this Act: Definitions.

A trade mark consists of one or more of the following essential particulars; that is to say,

A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

A written signature or copy of a written signature of an individual or firm; or

A distinctive device, mark, heading, label, or ticket;

and there may be added to any one or more of the said particulars any letters, words, or figures, or combination of letters, words, or figures; also

Any special and distinctive word or words or combination of figures or letters used as a trade mark before the passing of this Act may be registered as such under this Act.

"Prescribed" means prescribed by general rules made in pursuance of this Act; and

"Court" means any of Her Majesty's superior courts of law or equity at Westminster, or any court to which the jurisdiction of such courts may be transferred, or any one or more of such courts which may be declared to be the court for the purposes of this Act by such general rules as aforesaid; but the provisions of this Act conferring a special jurisdiction on the court as above defined shall not, excepting so far as such jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in

causes, actions, suits, or proceedings relating to trades marks; and if the register requires to be rectified in consequence of any proceedings in any such court in Scotland or Ireland, due notice of such requirements shall be given to the registrar, and he shall rectify the register accordingly.

Short title of Act.

11. This Act may be cited for all purposes as the Trade Marks Registration Act, 1875.

CHAPTER 92.

An Act for amending the Law relating to Agricultural Holdings in England. [13th August 1875.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Agricultural Holdings (England) Act, 1875.

Commencement of Act.

2. This Act shall commence from and immediately after the fourteenth day of February one thousand eight hundred and seventy-six.

Extent of Act.

3. This Act shall not extend to Scotland or Ireland.

Interpretation.

4. In this Act—

"Contract of tenancy" means a letting of land for a term of years, or for lives, or for lives and years, or from year to year, or at will:

"Determination of tenancy" means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause:

"Landlord" means the person for the time being entitled to possession of land subject to a contract of tenancy, or entitled to receipt of rent reserved by a contract of tenancy, whatever be the extent of his interest, and although the land or his interest therein is incumbered or charged by himself or his settlor, or otherwise, to any extent; the party to a contract of tenancy under which land is actually occupied being alone deemed to be the landlord in relation to the actual occupier:

"Tenant" means the holder of land under a contract of tenancy:

"Landlord" or "tenant" includes the agent authorised in writing to act under this Act generally, or for any special purpose, and the executors, administrators, assigns, husband, guardian, committee of the estate, or trustees in bankruptcy, of a landlord or tenant:

"Holding" includes all land held by the same tenant of the same landlord for the same term under the same contract of tenancy:

"Absolute owner" means the owner or person capable of disposing, by appointment or otherwise, of the fee simple or whole interest of or in freehold, copyhold, or leasehold land, although the land or his interest therein is mortgaged, encumbered, or charged to any extent:

"County court," in relation to a holding, means the county court within the district whereof the holding or the larger part thereof is situate:

"Person" includes a body of persons and a corporation aggregate or sole.

The designations of landlord and tenant shall, for the purposes of this Act, continue to apply to the parties to a contract of tenancy until the conclusion of any proceedings taken under this Act on the determination of the tenancy.