

quent as will be sufficient to pay such tax and cost of seizure and sale, and shall and may sell the personal property at any time and place upon giving a verbal notice of one hour previous to such sale, and shall and may sell the realty in the manner prescribed for Sheriff's sales under execution; and any person indebted to another liable to pay such tax, shall be liable to pay the same for such other person, after service upon him by the Road Master of a written notice, stating the name or names of the person or persons liable and owing said tax; and the party paying is hereby authorized to deduct the amount thereof from such indebtedness. The Road Master, after deducting the tax for which property was sold, and such fees and costs as would accrue to the Sheriff for like services, shall return the surplus to the owner of the property. A delivery of the possession of personal property after sale by the Road Master to any purchaser shall be a sufficient title thereof; or, if required by the purchaser, the Road Master shall execute a bill of sale. The Road Master may also demand of each employer a statement, under oath, touching his indebtedness to the laborers employed by him who are liable to pay the road poll tax; and if it shall appear, upon such statement being made, that such employer is indebted to any person liable to pay the road poll tax in an amount equal to said tax due by him, the Road Master may demand payment of said taxes from such employer; and if such employer refuses or neglects to pay the same, or to make a statement of his indebtedness under oath, the said Master, in his own name, may proceed to collect the amount from him by suit; and in all suits under this Act, the Road Master shall be a competent witness.

Collection
of taxes.

SEC. 6. This Act shall take effect immediately, and all Acts and parts of Acts inconsistent therewith so far as relates to the County of Contra Costa, are hereby repealed.

CHAP. CXXIX.—*An Act concerning Trade Marks and Names.*

[Approved April 3, 1863.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

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

Counterfeit-
ing trade
mark.

any article to have been manufactured or sold by the person rightfully using such trade mark or name, or to be of the same kind, character, or quality, as that manufactured or sold by the person rightfully using such trade mark or name.

Claim to be filed in office of Secretary of State. 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.

Fee for filing. 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 five 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.

Violations of Act. 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.

Penalties. 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 alteration 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.

Counterfeiting. 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.

SEC. 7. Every person who shall aid, or abet, or counsel in, or Penalties. procure the commission of any offence 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.

SEC. 8. This Act shall not be so construed as to permit any Construction of Act. 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.

SEC. 9. Any person who has first adopted and used a trade Trade mark. mark or name, whether within or beyond the limits of this State, shall be considered its original owner, and the ownership Original owner. 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.

SEC. 10. Every person filing with the Secretary of State, as Claim. 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 officer authorized by the laws of this State to take acknowledgements of conveyances, Affidavit to be attached. 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.

SEC. 11. Any Court of competent jurisdiction may restrain, Injunction. by injunction, any use of trade marks or names in violation of any section of this Act.

SEC. 12. No person, otherwise competent as a witness, shall Evidence on trial. be disqualified or excused from testifying as a witness, either before a Grand Jury or a Petit Jury, or otherwise, concerning any offence 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 afterwards be brought against him for said offences concerning which he has testified as a witness.

SEC. 13. Any witness called to give testimony on behalf of Same. 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 offence against the provisions of this Act so disclosed.

SEC. 14. An Act entitled an Act concerning trade marks, Act repealed passed May eighteenth, eighteen hundred and sixty-two, is hereby repealed.

SEC. 15. This Act shall take effect and be in force from and after the first day of May, one thousand eight hundred and sixty-three.