

COMMENTS ON CURRENT ENGLISH DECISIONS.

The Law Reports for February comprise 24 Q.B.D., pp. 141-271; 15 P.D., pp. 13-25; 43 Chy.D., pp. 97-186.

TRADE MARK—MERCHANDISE MARKS' ACT—(50 & 51 VICT., c. 28) s. 2, s-ss. 1, 2, s. 3, s-ss. 1, 3—R.S.C., c. 166, s. 6.)—OFFENCE OF SELLING GOODS TO WHICH A FALSE TRADE DESCRIPTION IS APPLIED—INTENT TO DEFRAUD.

Passing by some Parliamentary registration of voters' cases, and a couple of cases on shipping law, which do not seem to call for any notice here, the first case which we think needs attention is *Wood v. Burgess*, 24 Q.B.D., 162, which is an interesting decision under the Merchandise Marks' Act. The facts of the case are, that Wood and Burgess were rival manufacturers of mineral waters. Wood, for the purposes of his trade, used glass bottles on which were moulded his name and address. A considerable number of these bottles got into the hands of Burgess, who filled them with mineral water of his own manufacture, and issued them so filled to his customers, having a paper label affixed to each bottle in the following words, "Burgess's Lemon, 215 Brick Lane, Bethnal Green Road." Mr. Burgess was prosecuted under the Act, and the magistrate found, as a fact, that the name, "T. Wood," was a false trade description within the meaning of the Act, and that Wood had not authorized Burgess to use it, but he acquitted Burgess on the ground that he had no intention to defraud. But on appeal to the Divisional Court (Lord Coleridge, C.J., and Mathew, J.), it was held that intent to defraud is not a necessary ingredient of the offence charged.

WEIGHTS AND MEASURES—FALSE WEIGHTS—PROPERTY OF GENERAL POST OFFICE—WEIGHTS AND MEASURES' ACT, 1878—(41 & 42 VICT., c. 49), ss. 25, 29, (R.S.C., c. 104, s. 25).

Regina v. Justices of Kent, 24 Q.B.D., 181, was an application to prohibit Justices from entertaining an information under the Weights and Measures' Act, 1878—(R.S.C., c. 104, s. 25) under the following circumstances: The defendant was a postmaster, and on the same premises as the post-office he also carried on the trade of a baker; an information was laid against him for having in his possession, for the purposes of his trade, an unjust scale. The scale in question belonged to the post-office, and was the property of the Crown—and was used solely for the purposes of the post-office. Lord Coleridge, C.J., and Mathew, J., granted the prohibition, holding that the Crown and its property are not subject to the provisions of the statute, and therefore the magistrate had no jurisdiction.

FRIENDLY SOCIETY—ILLEGAL RULES—RESTRAINT OF TRADE.

The principle laid down in *Swaine v. Wilson*, 24 Q.B.D., 252, is one which will apply to other cases than those arising under the particular statute in question in that case. That principle is this, that where the general objects of a society are legal, the fact that some of its rules are illegal does not constitute the society an illegal society, or prevent a member of the society from recovering a sum of money payable to him under a rule of the society which is not illegal.