

where it is apparent that there is an imitation of the plaintiff's label, whether as to color, shape or inscription, which imitation is calculated and intended to deceive the general public. The evidence satisfies me that the blue wrapper as used by the defendant is calculated to deceive purchasers, and I think that it is very clearly proven that the ordinary purchaser is deceived by the similarity of the dresses in which the soaps are put upon the market.

A critical and careful examination of the two packages will undoubtedly reveal distinctions and differences between the labels, and the devices thereon are different; but there is such a general resemblance, that, to borrow the language of the vice-chancellor in *Edleston v. Vick*, *supra*, "the court or jury would be bound to presume that it was not a fortuitous concurrence of events which has produced this similarity; it would be irrational not to rest convinced that this remarkable coincidence of appearance, external and internal, is the result of design."

In the case of *Abbott v. Bakers and Confectioners Tea Association*, Weekly Notes, 1872, p. 31, an injunction has been issued restraining the defendants from issuing wrappers which were in imitation of those of the plaintiffs. On appeal the Lord Chancellor said, "that though no one particular mark was exactly imitated, the combination was very similar, and likely to deceive; that it was true that there was no proof that any one had been deceived, or that the plaintiffs had incurred any loss, but where the similarity is obvious, that was not of importance." The appeal was therefore dismissed. See case reported below. Weekly Notes, 1871, p. 207. This last case seems to be decisive of the question now under consideration. See, also, *Lockwood v. Bostwick*, 2 Daly, 521; *Godillot v. Hazard*, 49 How. 10.

I am, therefore, of the opinion that the plaintiffs are entitled to an injunction restraining the defendant from vending saphia in the blue packages in which it is now sold. By this I do not mean to be understood as holding that the defendant has not the right to manufacture and also to sell saphia, nor to restrain him from the use of that name, or of the figure or device upon the label; but I do intend that he shall abstain from dressing his goods in wrap-

pers so closely resembling the plaintiffs', as to enable him to deceive the public and to perpetrate a fraud; and that he shall not sell saphia as and for sapolio. In other words, he must sell under his own colors and not under those of the plaintiffs.

Judgment accordingly.

CLERICAL BANKRUPTS.—Clergymen in the United States are entitled to take advantage of the Bankrupt Act, and the last issue of the *Chicago Legal News* refers to the fact that R. W. Patterson, "the veteran Presbyterian Minister of Chicago," has just filed a petition in bankruptcy. Our contemporary remarks: "It seems hard for a man who has devoted so many years to labor in the Lord's vineyard as Dr. Patterson has, to have to go through the bankrupt court in his old age." Before expressing sympathy with the venerable pastor, one would like to know how the debts were incurred. One would like to be sure that the Doctor has not brought himself into his unpleasant situation by "selling short," or by the bursting of a "corner."

GENERAL NOTES.

—A curious judgment was recently delivered by a sessions judge in one of the Bengal districts. Four persons were brought before him on a charge of murder, and were duly convicted; but in passing sentence the judge apparently found himself in a difficulty. "There is no doubt," said he, "that all four are guilty of murder, and are therefore liable to be hanged; but I do not think it is necessary for four lives to be taken for one, but that one case of capital punishment will be enough for example!" Although, in addition to this, he said further on that "all four seem to have been equally active," yet he concluded by sentencing the apparently oldest and strongest of the prisoners to death, and the other three to imprisonment for life. It is needless to say that on an appeal to the High Court the sentence was not confirmed. Yet such is the reading of the law by some of the Indian Judges—*Albany Law Journal*.

EVERY DOG HAS HIS DAY.—In the Croyden, England, County Court, in a case entitled *Saunders v. Evans*, the English idea of giving every one a chance was well illustrated. Plaintiff sought to recover damages for the loss