

TRADE MARK—DISTINCTIVE MARK—"PERFECTION"—"ADAPTED TO DISTINGUISH"—USER—EVIDENCE—TRADES MARK ACT, 1905 (5 EDW. VII. c. 15), s. 9(5)—(R.S.C. c. 71, s. 11).

*In re Crosfield* (1910) 1 Ch. 118. This was an appeal from the registrar of trade marks for refusing to register the word "Perfection" as applied to soap as a trade mark. The applicants gave evidence that up to January, 1907, the applicants had used the word in conjunction with their name and two pyramids, with a caution that the genuine tablet of the soap bore the name and pyramids, and they also shewed that the word "Perfection" alone had come to denote their soap exclusively over a large extent of England and Wales, as distinguished from that of other makers. The registrar refused registration and Eady, J., upheld his decision being of the opinion that there was nothing in the word itself "adapted to distinguish" the applicants' soap, and the fact that its use within large areas of the United Kingdom had rendered it distinctive of the applicants' soap to many persons in those areas, though not so to many others, and scarcely to anyone outside of those areas, was not sufficient to make the mark "distinctive" or "adapted to distinguish" within the meaning of the statute (see R.S.C. c. 71, s. 11), and this conclusion was affirmed by the Court of Appeal: see next case.

TRADE MARK—REGISTRATION—DISTINCTIVE WORD—LAUDATORY EPITHET — GEOGRAPHICAL NAME—PHONETIC SPELLING OF COMMON WORDS—TRADES MARK ACT, 1905 (5 EDW. VII. c. 15), s. 9(5), ss. 11, 14—(R.S.C. c. 71, s. 11).

*In re Crosfield* (1910) 1 Ch. 130. This is an appeal from the judgment of Eady, J., in the preceding case, and also from the judgment of Warrington, J., *In re California Fig Syrup Co.* (1909) 2 Ch. 99, noted, ante, vol. 45, p. 597, and also from the judgment of Eve, J., *In re Brock*. The facts in the first of these cases are sufficiently stated in the preceding note, and it will suffice to say that the Court of Appeal affirmed the decision. In the second case the application was to register as a trade mark the words "California Syrup of Figs" as applied to an aperient medicine of which registration had been refused by Warrington, J. In this case the Board of Trade had referred the matter to the court. The evidence established a *prima facie* case of the words having become identified by long use with the goods of the applicant and the Court of Appeal overruling Warrington, J., held that the application ought to be allowed to proceed.