Apollinaris, [1891] 2 Ch. 186, at pp. 224 & 225, the matter is put as follows: "The question is merely one of *locus standi*. . . . Whenever one trader, by means of his wrongly registered trademark narrows the area of business open to his rivals, and thereby either immediately excludes or, with reasonable probability, will in the future exclude, a rival from a portion of that trade into which he desires to enter, that rival is an 'aggrieved person'."

In another leading case, *Re Powell's Trade Mark* (1893), 10 R.P.C. 195; 11 R.P.C. 4, Lord Herschell said, 11 R.P.C. at p. 7: "Wherever it can be shewn, as here, that the Applicant is in the same trade as the person who has registered the Trade Mark, and wherever the Trade Mark, if remaining on the Register, would, or might limit the legal rights of the Applicant, so that, by reason of the existence of the entry on the Register, he could not lawfully do that which but for the existence of the mark upon the Register, he could lawfully do, it appears to me he has a *locus standi* to be heard as a person aggrieved. *A person who has before registration used the registered trade mark is a 'person aggrieved.'*"

See also *Re Zonophone Trade-Mark* (1903), 20 R.P.C. 450.

In the leading Canadian case, *Re Vulcan Trade-Mark* (1915), 24 D.L.R. 621, 51 Can. S.C.R. 411, affirming (1914), 22 D.L.R. 214, 15 Can. Ex. 265, Davies, J., said, 24 D.L.R. at p. 623: "Any person aggrieved, used in both statutes, embrace any one who may possibly be injured by the continuance of the mark on the register in the form and to the extent it is so registered."

See also *Autosales Gum & Chocolate Co.* (1913), 14 Can. Ex. 302; *Bowker Fertilizer Co.* v. *Gunns Ltd.* (1916), 27 D.L.R. 469, 16 Can. Ex. 520.

RIGHTS TO A TRADEMARK BETWEEN MANUFACTURING AND SELLING AGENT:

In the leading case of *The Leather Cloth Co. Ltd.* v. *The American Leather Cloth Co. Ltd.* (1863), 4 DeG. J. & S. 137, 46 E.R. 868; (1865), 11 H.L. Cas. 523, 11 E.R. 1435, an English company purchased the business of an American company and used the trademark. Wood, V.-C., granted injunction, Westbury, L.C., reversed the decision, and this reversal was confirmed by the House of Lords. Westbury, L.C., delivering the judgment, said (4 DeG. J. & S. at pp. 143, 144 (46 E.R. at p. 871): "But suppose an individual or a firm to have gained credit for a particular manufacture . . . (there being no secret process or invention), could such person or firm on ceasing to carry on business sell and assign the right to use such name and mark . . .? Suppose a firm of A. B. & Co. to have been clothiers, in Wiltshire for fifty years . . . and that on discontinuing business, [they] sell and transfer the right to use their name and mark to a firm of C. D. & Co., who are clothiers in Yorkshire, would the latter be protected by a Court of Equity in their claim to an exclusive right to use the name and mark of A. B. & Co. I am of opinion that no such protection ought to be given. . . . To sell an article stamped with a false statement is *pro tanto* an imposition on the public, and, therefore, in the case supposed the Plaintiff and Defendant would be both *in pari delicto*. This is consistent with many decided cases."

In another leading case of *Re Magnolia Metals Co.'s Trade Marks* (1897), 14 R.P.C. 621, the Court dealt with an agency contract from an American firm to a firm in Great Britain. The business in America was assigned. The question was whether the trademark in Great Britain for the manu-