

CRIMINAL LAW—MARITAL COERCION—(CR CODE, SS. 12 13).

Brown v. Attorney-General (1898) A.C. 234, was an appeal from the Court of Appeal of New Zealand in a criminal case. The appellant, a married woman, had been tried for unlawfully using instruments with intent to procure an abortion. The New Zealand Criminal Code includes provisions similar to those in Cr. Code ss. 12, 13, and the jury at the trial without any evidence except the fact of marriage, had found that the prisoner had acted under the coercion of her husband, notwithstanding this finding the prisoner was convicted, and her conviction was affirmed by the Court of Appeal. The Judicial Committee of the Privy Council (The Lord Chancellor, and Lords Watson, Hobhouse and Davey and Sir R. Couch), affirmed the decision, being of opinion that the point sought to be raised by the appeals, viz., whether under the Code the fact that the offence was committed under the control or by command of the husband was a defence, was not open to the appellant on the facts, inasmuch as there was no evidence of any such control or command.

TRADE NAME—INJUNCTION—"FLAKED OATMEAL"—TERM OF ORDINARY DESCRIPTION—IDENTIFICATION OF NAME WITH GOODS BY USER.

Parsons v. Gillespie (1898), A.C. 239 was an action to restrain the use of the trade name of "Flaked Oatmeal," by the defendant in connection with goods not sold or manufactured by the plaintiffs. The plaintiffs relied on *Reddaway v. Banham* (1896) A. C. 199 (see ante vol. 32 p. 578), but the Judicial Committee, while approving of that case, nevertheless held that the plaintiffs were not entitled to succeed, because they had failed to prove that the name had become so identified with the goods manufactured by them, that its use by the defendants was calculated to have or did have the effect of enabling them to pass off their goods as those of the plaintiff, and the judgment of the Supreme Court of New South Wales dismissing the action, with damages resulting from the granting of an interim injunction, was affirmed.