

hundred and twenty-five thousand dollars. Such bonds, notes and scrip shall bear on their face the words, Town of Whitman Water Loan, Act of 1893; shall be payable at the expiration of periods not exceeding thirty years from the date of issue, shall bear interest payable semi-annually at a rate not exceeding six per cent. per annum, and shall be signed by the treasurer of said town and countersigned by the water commissioners thereof. The said town may sell such securities at public or private sale, or pledge the same for money borrowed for the purposes of this act, upon such terms and conditions as it may deem proper. The said town shall provide, at the time of contracting said loan, for the establishment of a sinking fund, and shall annually contribute to such fund a sum sufficient with the accumulations thereof to pay the principal of said loan at maturity. The said sinking fund shall remain inviolate and pledged to the payment of said loan and shall be used for no other purpose.

Sinking fund.

SECTION 4. Sections three and four of chapter one hundred and fifty-two of the acts of the year eighteen hundred and eighty-three, relative to recording a description of land, water rights or other property taken, and relative to the payment of damages therefor, shall apply to the taking of any land, water rights or other property by the town of Whitman under this act.

1883, 152, §§3, 4 to apply.

SECTION 5. This act shall take effect upon its acceptance by a two thirds vote of the voters of the town of Whitman present and voting thereon at a legal town meeting called for the purpose within three years from its passage; but the number of meetings so called in any year shall not exceed three.

Subject to acceptance by a two thirds vote, etc.

Approved June 9, 1893.

AN ACT TO PROTECT PERSONS, ASSOCIATIONS OR UNIONS OF PERSONS IN THEIR LABELS, TRADE-MARKS AND FORMS OF ADVERTISING.

Chap. 443

Be it enacted, etc., as follows:

SECTION 1. Whenever any person, association or union of persons has adopted or shall hereafter adopt for his or its protection, any label, trade-mark or form of advertisement not previously adopted or owned by any other person, firm, association or union, announcing that goods to which such label, trade-mark or form of advertisement is attached were manufactured by such person,

Counterfeiting or imitating of certain trade-marks, labels, etc.

or by a member or members of such association or union, and shall have duly filed copies of the same for record in the office of the secretary of the Commonwealth, as provided in section four of this act, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trade-mark or form of advertisement. Every person violating the provisions of this section shall, upon conviction, be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months, or both.

Penalty.

Penalty for using labels, etc., known to be counterfeit, etc.

SECTION 2. Every person who shall use any counterfeit or imitation of any label, trade-mark or form of advertisement of any such person, union or association, copies of which have been duly filed for record in the office of the secretary of the Commonwealth, as provided in section four of this act, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding two hundred dollars or by imprisonment not exceeding six months, or both such fine and imprisonment.

Penalty for knowingly using, etc., genuine labels, etc., on other goods, etc.

SECTION 3. Every manufacturer who shall knowingly use or affix the genuine label or trade-mark adopted by any person, association or union, as herein provided, and filed in the office of the secretary of the Commonwealth, as provided in section four of this act, upon any goods not manufactured by such person, or by a member or members of such association or union, shall be punished by a fine not exceeding two hundred dollars or by imprisonment not exceeding one year, or both such fine and imprisonment.

Filing of labels, trade-marks, etc., with secretary of the Commonwealth; fee.

SECTION 4. Every such person, association or union that has heretofore adopted, or shall hereafter adopt, a label, trade-mark or form of advertisement, as provided in section one of this act, may file the same for record in the office of the secretary of the Commonwealth, by leaving two copies, counterparts or facsimiles thereof, with said secretary; and shall file therewith a certificate specifying the name or names of the person, association or union so filing such label, trade-mark or form of advertisement, his or its residence, location or place of business, the class of merchandise and the particular description of goods comprised in such class to which it has been or is intended to be appropriated, and the length of time, if any, during which it has been in use. Such certificate

shall be accompanied by a written declaration, verified under oath by the person or some officer of the association or union by whom it is filed, to the effect that the party so filing such label, trade-mark or form of advertisement has a right to the use of the same, and that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimiles, copies or counterparts filed therewith are true and correct. There shall be paid for such filing the fee of one dollar. Any person who shall procure the filing of any label, trade-mark or form of advertisement in the office of the secretary of the Commonwealth, under the provisions of this act, by making any false or fraudulent representation or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by the party injured thereby in an action of tort; and shall be punished by a fine not exceeding two hundred dollars or by imprisonment not exceeding six months, or both such fine and imprisonment. Said secretary shall deliver to such person, association or union so filing the same a duly attested certificate of the record of the same, for which he shall receive the fee of one dollar. Such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark or form of advertisement. No label, trade-mark or form of advertisement shall be recorded that would reasonably be mistaken for a label, trade-mark or form of advertisement already on record.

Penalty, etc.,
for false or
fraudulent
representation,
etc.

Certificate of
record; fee.

Proof of adop-
tion. Label, etc.,
not to be re-
corded.

SECTION 5. Every such person, association or union which has adopted a label, trade-mark or form of advertisement, as provided in section one of this act, and that has duly filed copies of the same for record in the office of the secretary of the Commonwealth, as provided in section four of this act, may proceed by suit to enjoin the manufacture, use or sale of any such counterfeits or imitations; and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use or sale, and shall award the complainant in such suit such damages resulting from such wrongful manufacture, use or sale as may by said court be deemed just and reasonable, and shall require the defendant to pay to such person, association or union the profits derived from such wrongful man-

Proceedings for
enjoining the
manufacture,
etc., of counter-
feits, etc.

ufacture, use or sale; and such court may also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by any officer of such association or union, on behalf of and for the use of such association or union, and every member of such association or union shall be liable for costs in any such proceeding.

Rules, regulations, etc., for filing labels, etc.

SECTION 6. The secretary of the Commonwealth is authorized to make rules and regulations, and prescribe forms for the filing of labels, trade-marks and forms of advertisement, under the provisions of this act.

Proof of ownership.

SECTION 7. In any suit or prosecution under the provisions of this act the defendant may show that he or it was the owner of such label, trade-mark or form of advertisement, prior to its being filed under the provisions of this act, and that it has been filed wrongfully or without right, by some other person, association or union.

Approved June 9, 1893.

Chap. 444 AN ACT TO REVISE THE CHARTER OF THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

City of Worcester.

SECTION 1. The inhabitants of the city of Worcester shall continue to be a body politic and corporate, under the name of the City of Worcester, and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations now incumbent upon and appertaining to said city as a municipal corporation.

Government and general management of affairs.

SECTION 2. The government of the city and the general management and control of all the fiscal, prudential and municipal affairs thereof shall be vested in a single officer, to be called the mayor, and in a body to be called the city council, except however that the general management and control of the public schools of the city shall be vested in a school committee. The members of the city council and school committee shall serve without compensation.

Number of wards.

SECTION 3. The territory of the city shall continue to be divided into eight wards, which shall retain their present boundaries until the same shall be changed under the gen-