cases. Without pursuing the subject further, I am of the opinion that the law is valid, and has not been repealed.

Motion to dissolve the injunction and dismiss the suit is denied.

BLAIR *v.* ST. LOUIS, H. & K. R. Co. and others.[1]

(*Circuit Court, E. D. Missouri.* June 30, 1885.)

CORPORATIONS—CONVEYANCE OF ENTIRE ASSETS—PRIORITY OF RIGHT AS BETWEEN UNSECURED CREDITOR OF GRANTOR AND MORTGAGE CREDITOR OF GRANTEE.

A., a corporation, being largely indebted to B. and others, its stockholders and officers organized C., a new corporation, and transferred to it all of A.'s assets, in consideration of stock in C., and of C.'s assuming A.'s liabilities. C. thereafter mortgaged the property so transferred to D., to secure an issue of bonds. At the time of the execution of the mortgage B.'s claim had not been reduced to judgment, but D. accepted the mortgage with notice of it. B. has since obtained judgment against C. *Held*, that his lien upon the property transferred is superior to D.'s.

In Equity.

Demurrer to evidence tending to prove the allegations of the cross-bill and answer of Josiah Fogg. For opinion upon demurrer to answer and cross-bill, see 22 FED. REP. 36. See, also, *Fogg* v. *St. Louis, H. & K. R. Co.* 17 FED. REP. 871.

Theodore G. Case, for complainant.

Jas. Case and *Geo. D. Reynolds*, for Fogg.

TREAT, J. The demand of Josiah Fogg to charge the assets of the old and new corporations, prior in right to the mortgage sued on, is presented to the court in the form of a demurrer to the evidence taken before the master. The principles on which this demand is to be determined have heretofore been fully considered. The present inquiry pertains solely to *notice* given of such prior demand. The transferred assets were greater than the assumed obligations by the new corporation. Hence all persons subsequent in interest with notice of such equitable lien take subordinate thereto. The evidence discloses that, although the transfer from the old to the new corporation was not formally recorded, all the parties were sufficiently informed with respect thereto. The equitable doctrine applies, viz., that they took subject to the prior equitable lien. Demurrer overruled.

Ordered that the demand of Josiah Fogg be allowed as an equitable lien prior in right to the mortgage sued on.

[1] Reported by Benj. F. Rex, Esq., of the St. Louis bar.

ANHEUSER-BUSCH BREWING ASS'N *v.* PIZA.

(*Circuit Court, S. D. New York.* 1885.)

TRADE-MARK—GEOGRAPHICAL NAME—"ST. LOUIS LAGER BEER"—FRAUDULENT SIMULATION OF LABELS—INJUNCTION.

Complainant, a brewer in St. Louis, Missouri, made, and exported to Panama and South American ports, beer in bottles, with a label bearing the words, "St. Louis Lager Beer." Defendant, a shipper of beer from New York city, and a competitor of complainant in trade in Panama and South America, labeled his bottles "St. Louis Lager Beer." *Held*, that although complainant could not have an exclusive property in the words "St. Louis," as a trade-mark, or the exclusive right to designate his beer by the name of "St. Louis Lager Beer," yet, as his beer had always been made at that city, his use of the designation upon his labels was legitimate; and that defendant, whose beer was made in New York, should be enjoined from diverting his trade by simulating his labels, or representing, in any other way, his products as those of complainant.

WALLACE, J. The complainant, a corporation doing business at St. Louis, Missouri, has for many years been accustomed to export its beer in bottles with a label bearing the words, "St. Louis Lager Beer." It had acquired a considerable market for its product in South America and Panama. During this time there were many other manufacturers and vendors of lager beer at St. Louis, but so far as appears none of them had an export trade, and none of them were accustomed to use labels with the words "St. Louis Lager Beer" printed upon them. The defendant is a shipper of beer at New York city, and a competitor of the complainant in trade at Panama and various places in South America. The affidavits show beyond doubt that in these places the beer, which is known as "St. Louis Lager Beer," is in demand, and it is doubtless because of this fact that the defendant, whose beer is made in New York, labels his bottles so as to represent that his beer is made at St. Louis, and so as to represent that his firm are the sole agents of the "St. Louis Lager Beer," at New York. He alleges that purchasers of beer at Panama and the other places in question in South America do not discriminate between the complainant's article and other beer made in the United States, but buy it simply because they suppose St. Louis lager beer is beer produced in the United States as distinguished from German and English beer. This may be true; but if it is, it does not seem to be conclusive against the right of the complainant to the injunction which he seeks. As the goods of the parties go to the same markets it can hardly fail to happen that the complainant will lose sales, and the defendant will get customers, in consequence of the defendant's acts.

Although the complainant cannot have an exclusive property in the words "St. Louis" as a trade-mark, or an exclusive right to designate its beer by the name "St. Louis Lager Beer," yet, as its beer has always been made at that city, its use of the designation upon its labels is entirely legitimate; and if the defendant is diverting complainant's