police power for the protection of the health and welfare of society. In reaching such a balance, any reasonable doubt on the part of the court or the jury as to the efficacy of the treatment and prognosis, the urgency and necessity of such treatment, and the resultant social and moral advancement, should be resolved in favor of the parent's fredom of action. The area where courts intervene should always be limited by extremely narrow bounds which can only be extended as the science of medicine and surgery becomes more definite and exact.

CRIMINAL LAW—POWER OF A COURT TO TRY A PERSON BROUGHT INTO THE JURISDICTION ILLEGALLY

While residing in Illinois, petitioner was seized by Michigan police, taken into Michigan, tried and convicted of a murder committed in Michigan. Extradition proceedings were not availed of. Petitioner sought a writ of habeas corpus in the United States District Court, alleging that he had been brought into the jurisdiction in violation of the Federal Anti-Kidnapping Statute.[1] The petition was denied. On appeal to the Court of Appeals, the decision of the District Court was reversed and remanded. On certiorari to the Supreme Court of the United States, held: reversed, and the decision of the District Court reinstated on the ground that the power of a court to try and convict a person accused of a crime is not impaired by the fact that he has been forcibly brought into the jurisdiction.[2]

The decision of the Supreme Court of the United States was consistent with its own precedents. In *Ker v. Illinois*,[3] where a state official had forcibly brought the accused back from a foreign country without having first requested the foreign country to return him, it was held that the state court had jurisdiction to try and convict the accused. Later, in *Mahon v. Justice*,[4] the same court ruled that the forcible abduction of a person accused of a crime from a sister state by police officers of the prosecuting state did not render the conviction void. The rule of those two cases has been consistently followed by both federal and state tribunals in cases involving the trial of persons abducted

1. 62 STAT. 760 (1948), 18 U.S.C. § 1201 (1950).
2. Frisbie v. Collins, 342 U.S. 519 (1952).
3. 119 U.S. 436 (1886).
4. 127 U.S. 700 (1888).

from foreign countries[5] and sister states[6] by officers of the prosecuting state or by private individuals[7] This rule has been applied regardless of the existence or non-existence of a request for the accused's return,[8] or the disposition of the request,[9] and even where the governor of the state from which the accused was taken demanded his return.[10] The reason given by the courts in justification of their decisions has been that even though the person or persons forcibly abducting the accused into another state may be guilty of civil and criminal wrongs, the state's jurisdiction to try a person accused of an offense against the people should not be affected by the wrongful acts of individuals.[11]

The United States Supreme Court has rejected the argument that due process of law as guaranteed by the Fourteenth Amendment is violated by the trial of a person who has been unlawfully brought into the jurisdiction. The only due process required by that court is that the accused be given a fair trial and accorded all the other constitutional guarantees.[12] Except for two instances,[13] the courts have ruled similarly with regard to the due process clauses of the state constitutions.[14] The Supreme Court

5. Ker v. Illinois, 119 U.S. 436 (1886); U.S. v. Insull, 8 F. Supp. 310 (N.D. Ill. 1934); *Ex parte* Lopez, 6 F. Supp. 342 (S.D. Tex. 1934); U.S. v. Unverzagt, 299 Fed. 1015 (W.D. Wash. 1924).

6. Pettibone v. Nichols, 203 U.S. 192 (1906); Mahon v. Justice, 127 U.S. 700 (1888); *Ex parte* Glenn, 103 Fed. 947 (C.C.D.W. Va. 1900).

7. Mahon v. Justice, 127 U.S. 700 (1888); Ker v. Illinois, 119 U.S. 436 (1886); *Ex parte* Glenn, 103 Fed. 947 (C.C.D.W. Va. 1900); U.S. v. Insull, 8 F. Supp. 310 (N.D. Ill. 1934); Leahy v. Kunkel, 4 F. Supp. 849 (N.D. Ind. 1933); *Ex parte* Lopez, 6 F. Supp. 342 (S.D. Tex. 1934).

8. Pettibone v. Nichols, 203 U.S. 192 (1906); Mahon v. Justice, 127 U.S. 700 (1888); Ker v. Illinois, 119 U.S. 436 (1886); *Ex parte* Glenn, 103 Fed. 947 (C.C.D.W. Va. 1900); U.S. v. Insull, 8 F. Supp. 310 (N.D. Ill. 1934); Leahy v. Kunkel, 4 F. Supp. 849 (N.D. Ind. 1933); *Ex parte* Lopez, 6 F. Supp. 342 (S.D. Tex. 1934); U.S. v. Unverzagt, 299 Fed. 1015 (W.D. Wash. 1924).

9. Hall v. Johnston, 86 F.2d 820 (9th Cir. 1936).

10. Mahon v. Justice, 127 U.S. 700 (1888).

11. Pettibone v. Nichols, 203 U.S. 192 (1906); Adams v. New York, 192 U.S. 585 (1904); Mahon v. Justice, 127 U.S. 700 (1888); Ker v. Illinois 119 U.S. 436 (1886); U.S. v. Baldi, 198 F.2d 113 (3rd Cir. 1952); Stamphill v. Johnston, 136 F.2d 291 (9th Cir. 1943); *Ex parte* Glenn, 103 Fed. 947 (C.C.D.W. Va. 1900); Carey v. Brady, 39 F. Supp. 515 (D. Md. 1941); U.S. v. Insull, 8 F. Supp. 310 (N.D. Ill. 1934).

12. Pettibone v. Nichols, 203 U.S. 192 (1906); Mahon v. Justice, 127 U.S. 700 (1888); Ker v. Illinois, 119 U.S. 436 (1886).

13. State v. Simmons, 39 Kan. 262, 18 Pac. 177 (1888); *In re* Robinson, 29 Neb. 135, 45 N.W. 267 (1890).

14. Mahon v. Justice, 127 U.S. 700 (1888). For collection of state cases, see Note, 165 A.L.R. 959 (1946).

of Nebraska in an early decision upheld the granting of a writ of habeas corpus to a prisoner who was forcibly abducted into the state,[15] but this decision was overruled in a subsequent case.[16] In *State v. Simmons*[17] the Supreme Court of Kansas upheld the granting of a writ of habeas corpus under the same circumstances. That decision has never been overruled,[18] but a more recent Kansas case referred favorably to the majority rule.[19]

Thus it is well settled that the courts of every jurisdiction of this country, with the possible exception of Kansas, will not grant a writ of habeas corpus to release a person convicted of a crime because he has been forcibly abducted or kidnapped into the jurisdiction.

EQUITY — TRADE NAME PROTECTION — CHARITABLE CORPORATION'S RIGHTS AGAINST A BUSINESS

Plaintiff, the "Golden Slipper Square Club," a non-profit, charitable corporation had presented annual stage shows and dinners since 1924 at which contributions had been solicited in order to finance its various charitable activities. Defendant, a restaurant and night club, adopted the name "Golden Slipper Restaurant and Catering Service, Inc." in 1948 with intent to trade on plaintiff's good name. Plaintiff in the lower court obtained an injunction restraining defendant from further use of its name. On appeal, held: affirmed. A well-established charitable corporation is entitled to injunctive relief against a business corporation adopting a similar name with the intent to trade on the charity's good will and reputation.[1]

It has been generally recognized that a trade name of a business organization will be protected from infringement.[2] At

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15. *In re* Robinson, 29 Neb. 135, 45 N.W. 267 (1890).
16. Jackson v. Olson, 146 Neb. 885, 22 N.W.2d 124 (1946).
17. 39 Kan. 262, 18 Pac. 177 (1888).
18. Nor has the case been followed. The question has never since been raised in Kansas.
19. State v. Wellman, 102 Kan. 503, 170 Pac. 1052 (1918).
1. Golden Slipper Square Club v. Golden Slipper Restaurant and Catering, Inc., 371 Pa. 92, 88 A.2d 734 (1952).
2. A name which is primarily generic or descriptive cannot be appropriated as a technical trade mark or trade name, but it will be afforded protection if it has, through usage, acquired a secondary meaning in the public mind as associated with a certain party or corporation. Safeway Stores, Inc. v. Dunnell, 172 F.2d 649 (9th Cir. 1949); Weatherford v. Eytchison, 90 Cal. App. 2d 379, 202 P.2d 1040 (1949); *see* American Steel Foundries v. Robertson, 269 U.S. 372, 380 (1926).