Mercantile Summary.

DECISIONS IN COMMERCIAL LAW

THE BOSTON RUBBER SHOE COMPANY VS. THE BOSTON RUBBER COMPANY OF MONTREAL.—In this age of commercial cial and industrial progress with its innumerable varieties of merchandise, the law of trade marks is very important. The present case, which is a recent decision of the Exchequer Court of Canada, points out very distinctly what constitutes an infringment of a trade mark, subjecting the infringer to an action for damages. The plaintiffs were a company incorporated in 1853, the head office of its business being in the State of Massachusetts; the defendant company was incorporated in 1896, its chief place of business being in Montreal. The plaintiffs had used a trade mark, the essential features of which were the words, "Boston Rubber Shoe Company," differently arranged, ever since its incorporation. This trade mark was registered and the plaintiffs were the owners of it. The defendant company was using a mark with practically the same essential features as the above, which had not been registered. This was practically the claim in toto of the plaintiffs, and at the very beginning of the action the defendant company attacked the claim made by the plaintiffs before the issue was tried, asserting that the mere charge that the defendants were using a trade mark essentially identical with that of the plaintiff was not a sufficient allegation to entitle the plaintiff to judgment. The defendants asserted that in addition to the above the plaintiffs must show that the imitation was fraudulent, and that the imitation was used with intent to deceive the public. However, the learned judge held that it was not necessary to prove fraud and intent to deceive in order to succeed, but the mere user of a trade mark in essential features the same as that of the plaintiffs was good ground alone for judgment. As the judge put it, "Imitation involves knowledge; and if one, by a trade mark attached to his goods, knowingly imitates another's trade mark, I do not see very well how he is to expect a court to find that the thing is done innocently." That is the mere imitation per se, implies a fraudulent usage of the mark, and the actual sale of the goods to the public implies the intention to deceive.

ARRANGEMENTS have been perfected for the establishment of a Canadian branch of the Society of Chemical Industry of Great Britain. There are already 30 members of the society in the Dominion, and of this number 12 reside in Toronto. A meeting for the purposes of organization will be held on October 23rd.

THE Grand Trunk Railway Co. has given a contract to Betford & Jenks, of Port Huron, for the erection of a new elevator at Point Edward, which was destroyed by fire recently. The new elevator will be a fine steel structure of 1,500,000 bushels' capacity, considerably larger than the one destroyed.