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DECISIONS IN COMMERCIAL LAW.

BERTRAND V. CANADIAN RUBBER CO.—The plaintiff assignee for the benefit of creditors of J. Lamonte brought this action to have a mortgage of Lamonte's stock-in-trade, made in favor of the defendant company, declared void as against creditors of Lamonte. The defendant company were creditors of Lamonte, and the plaintiff's allegation was that the mortgage was made when Lamonte was in insolvent circumstances and unable to pay his debts in full, with intent to give the company a preference over his other creditors. The first question was whether Lamonte was in insolvent circumstances or unable to pay his debts in full when he made the mortgage. Lamonte had commenced business about four years before his assignment, with a capital of \$500. When he made the mortgage he had a surplus, upon his valuation of his stock, of about \$1,000, besides a piece of land valued at \$750. He was carrying a stock of \$9,000 or \$10,000. A creditor, as his claim was about maturing, notified Lamonte that he insisted upon payment; other considerable sums were already overdue, or about maturing, which it was impossible to meet at once. Taking all the circumstances into consideration, the inference was that the debtor could not, at the time of making the mortgage, dispose of his assets for sufficient to meet his liabilities, and he must be considered as having then been in insolvent circumstances. The mortgage to the defendant company was made with intent to give that company a preference over other creditors. The suggestion to secure the company came from the debtor voluntarily. There was no pressure. The whole scheme was intended for the benefit of the creditors to whom the security was offered. The mortgage must be declared void as against the plaintiff, and he would be entitled to the proceeds of the mortgaged property brought into court. This is a judgment of Judge Kilham of Manitoba.

WILSON V. LYMAN.—Action by Archdale Wilson & Co., wholesale druggists, at Hamilton, against Lyman Bros. Co. (Limited), wholesale druggists, at Toronto, for an injunction restraining the defendants from imitating and infringing on the plaintiffs' trade-marks, labels, envelopes and boxes, and from imitating and infringing upon the pads manufactured by the plaintiffs, and sold under a registered trade-mark consisting of the words "Wilson's Fly Poison Pads." The defendants described their goods as "The Lyman Bros. & Co. (Limited) Lightning Fly Paper Poison." The word "pad" only appeared upon the envelopes as printed at the top, as follows; "Three pads in a package, five cents." "Six pads in a package, ten cents." The plaintiffs' contention was that the defendants should be restrained from using the word "pad" in any form upon the package. The defendants' contention was that unless the court had the right to restrain the defendants from putting up fly paper in the form of pads, there was no right to restrain them from stating on the envelopes that there were pads inside. Rose, J., held that the plaintiffs were not entitled to have the defendants restrained from using the word "pads" as they did upon their envelopes.

A party left Winnipeg in June for exploring and mining purposes in Alaska or Farthest West Canada. All the members of the party reached Lake Linderman, Yukon, in safety. They will probably not reach their destination, the Clondyke district, until early in August, as the trip by lake and river usually takes six weeks.

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