DIARY FOR JUNE.

1. Sun....*Trinity Sunday.*
4. Wed...Lord Eldon born 1751.
5. Thu....Battle of Stoney Creek, 1813.
7. Sat.....Easter Term ends.
8. Sun....*First Sunday after Trinity.*
9. Mon ...County Court Sittings for Motions in York. Surrogate Court Sittings.
10. Tues...General Sessions and County Court Sittings for trial except in York.
11. Wed ...St. Barnabas. Lord Stanley Gov.-Gen., 1888.
14. Sat.....County Court Sittings for Motions in York end. Magna Charta signed, 1215.
15. Sun....*Second Sunday after Trinity.*
16. Mon ...Battle of Quatre Bras, 1815.
18. Wed ...Battle of Waterloo, 1815.
19. Thu....Battle of Blenhiem, 1704.
20. Fri.....Accession of Queen Victoria, 1837.
21. Sat. ...Longest day.
22. Sun....*Third Sunday after Trinity.* Slavery declared contrary to the laws of England, 1772.
24. Tues...Midsummer Day. St. John Baptist.
25. Wed ...Sir M. C. Cameron died 1887.
28. Sat.....Coronation of Queen Victoria, 1838.
29. Sun....*Fourth Sunday after Trinity.* St. Peter.
30. Mon ...Jesuits expelled from France, 1880.

Early Notes of Canadian Cases.

SUPREME COURT OF CANADA.

[June 14, 1888.

PARTLO *v.* TODD.

Trade Mark—Registration—Effect of—Exclusive right—Property in words designating quality—Rectification of registry.

P., a manufacturer of flour, registered a trade mark, under the Trade Mark and Design Act, 1879 (42 Vict. c. 22), consisting of a circle containing the words, "Gold Leaf," surmounted by the number 196, and with the word "flour" and P.'s name underneath, the whole surrounded by the words "Ingersoll Roller Mills, Ont., Can."

In an action against T. for using a similar mark, and selling flour purporting to be the "Gold Leaf" of P., the defendant was allowed to offer evidence to show that "Gold Leaf" was a description applied to flour made by a particular process, and was in common use by the trade, both in Ontario and the Maritime Provinces, prior to the registration of such trade mark.

Section 8 of the Act provided that after registry the person registering a trade mark "shall have the exclusive right to use the same to designate articles manufactured by him," and the said evidence was objected to on the ground that under this section the validity of the trade mark could not be impugned.

Held (affirming the decisions of the Divisional Court, 12 O.R.C., 171, and of the Court of Appeal, 14 O.R.C., 444, TASCHEREAU, J., dissenting), that the evidence was properly admitted; that a trade mark is not made such by registration, but it is only a mark or symbol in which property can be acquired, and which will designate the article on which it is placed as the manufacture of the person claiming an exclusive right to its use, that can properly be registered; and that the statute does not prevent a person accused of infringing a trade mark from showing that it is composed of words or symbols in common use, to which no exclusive right of user can attach.

Held, also, that where the statute prescribes no means, by way of departmental procedure or otherwise, for rectification in case of a trade mark so improperly registered, the Courts may afford relief, by way of defence, to an action for infringement.

Held, per GWYNNE, J., that property cannot be acquired in marks, etc., known to a particular trade as designating quality merely, and not, in themselves, indicating that the goods to which they are affixed, are the manufacture or stock-in-trade of a particular person. Nor can property be acquired in an ordinary English word, expressive of quality merely, though it might be in a foreign word, or word of a dead language.

Appeal dismissed with costs.

W. Cassels, Q.C., for the appellant.

Moss, Q.C., and *McCarthy*, Q.C., for the respondent.

[June 14, 1889.

BROWN *v.* LAMONTAGUE.

Chattel mortgage—Fraud against creditors—Prior agreement—Additional chattels in mortgage—Effect of.

B. sold a quantity of machinery, tools and fixtures to one P. for $3120.90. The goods were in a factory owned by B., and were to be paid for by monthly payments, extending over a period of forty-eight months. P. agreed to keep them insured in favor of B., and to give B. a hire receipt or chattel mortgage, as security for payment. P. was put in possession of the property, and received letters from B. recomending him to certain merchants in Montreal, and he went to Montreal and purchased goods from L. among others.