with safety in connection with the suspenders at all; but certainly they might have created more doubt as to their object if they had put their letter "B" on the brass buckle or elsewhere, instead of on a button precisely like plaintiffs' button. I do not say that even if they had done that they would have been able to successfully defend this action; but I think they have been fairly successful in leading to confusion and doubt on the part of purchasers by selecting a letter like the letter "B," the most similar in size and appearance and sound to that of the plaintiffs; placing it on the same kind of button, of the same shape and appearance, and in the same place.

Any doubt or confusion on the part of purchasers has been brought about by the action of defendants; and we have it from 3 witnesses at least—who seem to be fairly intelligent young men and quite familiar with plaintiffs' goods—that they in purchasing in the ordinary way, and seeking to purchase plaintiffs' goods, found themselves purchasers of defendants' goods instead. It would therefore seem that defendants' action is likely to cause confusion between their goods and plaintiffs', and also to lend itself to the passing off of their goods for those of plaintiffs.

There will therefore be judgment for plaintiffs, restraining defendants from infringing plaintiffs' trade mark; and plaintiffs are entitled to a reference as to damages and to the costs of this action up to the judgment. Costs of the reference to be disposed of by the officer taking the same.

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JANUARY 22ND, 1906.

C.A.

## CANADIAN PACIFIC R. W. CO. v. OTTAWA FIRE INS. CO.

*Fire Insurance—Property along Line of Railway Damaged by Fire from Engines—Property in Foreign Country—Standing Timber—Powers of Ontario Insurance Company to Insure—Application of Policy to Other Property—Validity of Policy—Statute of Foreign Country—Mistake.*

Appeal by plaintiffs from judgment of CLUTE, J., 5 O. W. R. 496, 9 O. L. R. 493, dismissing action to recover for