The accused had procured high wines, and cherries and sugar were added, this making the so-called cherry brandy. The resultant liquor was 25 per cent. proof spirits in one bottle or jar, and 44 per cent. in another.

It was said this was not a making or manufacturing within the prohibition; that the accused did not make the high wines, nor did he make the cherries or the sugar; he formed the happy combination, but did not make or manufacture it.

The learned Judge said that he could not so interpret the order in council or what was done.

What was intended by the order in council, as appeared from the recitals, was the prohibition of intoxicating liquor. What the defendant sought to do was to make a beverage that manifestly was intoxicating. The resultant cherry brandy was made by him. He did not create the ingredients nor manufacture them, but he did make and manufacture the beverage. The baker makes and manufactures bread even though he does not grow or grind the wheat.

In each case it is a question of fact for the magistrate whether what was done amounts to making or manufacturing. Here there was ample evidence to support his finding.

Motion dismissed with costs.

SUTHERLAND, J. NOVEMBER 8TH, 1919.

GIBSON v. McDOUGALL.

Conspiracy—Action for Conspiring to Charge Plaintiff with being the Father of a Bastard—Action not Maintainable without Allegation of Special Damage—Slander—Motion to Set aside Statement of Claim—Leave to Amend—Costs.

Motion by the defendants to set aside the statement of claim delivered by the plaintiff as frivolous and vexatious and disclosing no cause of action.

The motion was heard in the Weekly Court, Toronto.

G. H. Kilmer, K.C., for the defendants.

W. K. Fraser, for the plaintiff.

SUTHERLAND, J., in a written judgment, said that this action was brought by a married man against Colin McDougall and his