

defendants, constituted an infringement thereof. The court, affirming the decision of the court below, denied the injunction on the ground that the defendants' use of their own name was fair and honest and in the ordinary course of business. The court said: "We think there is neither authority or reason in support of the doctrine that the fair and honest use of one's name can be enjoined, when it is used in the ordinary course of business, in the way and manner in which other manufacturers of similar goods are accustomed to use their own names in the preparation for the sale of goods."

**AGREEMENT—PERFORMANCE—SATISFACTION.**  
—A contract for making certain changes in steam-boilers provided that the boilers were to be paid for as soon as the persons for whom the changes were made were "satisfied that the boilers as changed were a success." The New York Court of Appeals held (Duplex Safety Boiler Company vs. Garden) that payment did not depend on the arbitrary determination of the persons for whom the changes were made, but that the boiler company was entitled to compensation when it had fully performed its work if there was no complaint of it. The court said: "Performance must of course accord with the terms of the contract; but if the defendants are at liberty to determine for themselves when they are satisfied there would be no obligation, and consequently no agreement which could be enforced." After citing a number of cases bearing upon the point involved the court added: "In the case before us the work required to be done was specified and was completed; the defendants made it available, and continued to use the boilers without objection or complaint. If there was full performance on the plaintiff's part nothing more could be required, and the time for payment had arrived, for, according to the doctrine of the above cases, that which the law will say a contracting party ought in reason to be satisfied with, that the law will say he is satisfied with."—*Bradstreet's*.

**Who Pays the Duty?**

It is not true that the duties laid on foreign products are always an element of cost to the consumer. Wherever a foreign product is brought into competition with the same grade of domestic production and the duty imposed represents the difference in cost of production, which may be the difference in wages paid for labor, the duty is partly paid by the foreign producer and partly by the importer himself. The producer is compelled to sell at a reduced profit at the point of shipment or the importer can not compete with the domestic product. The latter must sell, after paying the duty, at the market price for the same grade of domestic goods. That this is what happens in all lines of goods under sharp domestic competition is shown by the progressive decrease in the cost of products largely manufactured at home. There is not a single line of such products that has not progressively decreased in cost to consumers as the home production increased and the necessary plant has been perfected. This fact is illustrated in the great iron and steel staples most markedly, but it is generally illus-

trated along the entire line of staple products common to this country.

But when a duty is imposed on a foreign product which we do not or can not produce, and which is in universal demand, the case is altered. If we purchase what we can not produce we must undoubtedly reckon the duty as part of the cost to consumers, unless the outside competition is so wide and so sharp as to create a rivalry among foreign producers for the control of our market. For example, were coffee grown only in a single county and by a syndicate we should have to pay the syndicate any price it might ask, duty added, or refuse to purchase at all. Hence we find that the price of coffee has decreased to us as the area of its production has widened, while the price of tea has only decreased through cheaper freights and adulteration. For tea is produced in only one quarter of the globe. So far as production is concerned there is hardly any competition in that article.

But, as we have said, a vigorous domestic competition tends to lower the price of all products, and the foreign producer can only make it an object to the importer to buy by selling at a considerable smaller profit than he would were his product entered free in our ports. The importer also conforms his prices to the market prices at home, which produces his profits. There is no alliance of importers with home producers but a steady competitive struggle. The duty comes off the foreign producer and importer who are often one. — *North American*.

**Fixing the Price of Sugar.**

As evidence to the members of the Toronto Retail Grocers' Association of what may be accomplished in the direction of fixing prices—a hopeless task in the opinions of many—we note that the retail grocers of Baltimore, having grown tired of selling sugar at cost, organized an association for the primary object of establishing a uniform price for sugar. The *Baltimore Enterprise* says:—"The membership fee is five dollars, every member being bound on honor to adhere to the laws; and on the roll is found the leaders in the grocery and tea trade of the city. The prices which the sugar committee set are rigidly adhered to, much good is being accomplished, and the trade is well pleased with the result. It is only a question of time when the majority of grocers and tea dealers of the city will be added to the roll."—*Toronto Merchant*.

**Failure Record.**

The failures in the older provinces of the Dominion for the first quarter of the present year show a slight falling off in number compared with those during the same period in 1885. Divided among the provinces they are as follows:—

	1886.		1885.	
	No.	Amount.	No.	Liabilities.
Ontario.	173	\$1,986,001	206	\$1,451,912
Quebec.	145	925,672	125	704,510
N. Brunsw'k	20	78,500	8	62,670
Nova Scotia.	29	208,500	32	288,025
P. E. Island.	3	17,700	...	...
Manitob.	13	116,299	22	320,685
Total.	383	\$3,332,672	393	\$2,827,782

It will thus be seen that, though the number has decreased by ten, there has been an increase in the amount of liabilities of \$504,890. The increase in this respect was greatest in Ontario, where the liabilities were \$334,080 heavier than in 1885, those of the failures in Quebec being \$221,162 in excess. The decline in the total is due to the improvement in trade in Manitoba, as evidenced by a large falling off in business casualties and a decrease in the liabilities of Lower province failures. In Newfoundland during the three months the failures number six, and the liabilities amounted to \$110,300.

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