

him from his position even if he secured him, but he let him know that on making a settlement he would endeavor to get a mitigation of the sentence, which he afterwards did.

Held, (affirming a Local Master: STREET, J., dissentiente) that there was no promise and no agreement that there should be any interference with the course of justice, and no promise to stifle or suspend the prosecution, and no step taken which interfered with the due prosecution of the offender, and that the mortgage which was given was a valid security.

Per STREET, J.—The mortgage was obtained by promising, if it was given, endeavours would be made to have the punishment made as light as possible, and such a bargain is founded on an illegal consideration, and a security given in consequence of it cannot be enforced.

Hamilton Cassels, for the appeal.

Grierson, contra.

BOYD, C. }
ROBERTSON, J. }

[Feb. 26.]

ROSE v. MCLEAN.

Trade name—Geographical designation—Injunction—Literary publication.

The plaintiffs being publishers of a journal devoted to the interests of the book-sellers in Canada, and called "The Canadian Book-seller," sought to enjoin the defendants from altering the name of the journal which they had been publishing for eleven years under the title "Books and Notions," to "The Canadian Book-seller and Stationer," and from selling it under the latter name.

Held, reversing the decision of MCMAHON, J., that the plaintiff was not entitled to the injunction sought for.

Per BOYD, C.—Two elements must co-exist in a case of this kind where the inhibition is without regard to the use of a common geographical name, the first of which was present in this case, but the second absent. The first is that the publication must have been such as to connect the proprietor with the publication in the mind of the trade or community interested, but further there must also have arisen in connection with such prior user of the geographical name, some secondary meaning attributable to the epithet which is sought to be appropriated—some secondary meaning connecting character or quality of the product. Here, however, the title "Canadian" in connection with "Bookseller" did not mean, so far as appeared from the evidence, any special kind of periodical or publication, but merely asserted the fact that the particular print, "The Book-seller," was a Canadian publication. A man cannot have monopoly or property in a geographical name as such.

C. Robinson, Q.C., and LeVesconte, for the motion.

Kappele and Bicknell, contra.

BOYD, C., }
ROBERTSON, J. }

[Feb. 26.]

PRIDE v. ROGERS.

Crown lands—Locatee—Jurisdiction—Statute of Limitations.

Certain land was located by the Crown to one Rogers, who left the Province in 1868, and was last heard of in 1877. The defendant, a son of Rogers,