

*Held*, that this voluntary dissolution operated as a wrongful dismissal of the plaintiff under his sub-contract and that although the probable duration of the contract and consequently of his sub-contract would have been, apart from the dissolution of partnership, quite uncertain, he was entitled to substantial and not merely nominal damages.

*Talbot MacBeth*, K.C., for plaintiff. *Geo. C. Gibbons*, K.C., and *John J. Drew*, for defendants.

Lount, J.]

GEGG v. BASSETT.

[Feb. 13.

*Trade mark—Execution.*

The right of property in a registered specific trade mark is not saleable by itself under a writ of execution. Such a right can be sold, if at all, only as appurtenant to the business in which it has been used.

*McBrady*, for plaintiff. *Laidlaw*, K.C., for defendants.

Street, J., Britton, J.]

PARENT v. COOK.

[Feb. 14-

*Third party notice—Time—Enlarging—Rules 209, 353.*

Appeal from judgment of MEREDITH, C.J., reported ante p. 44.

At the close of the appellant's argument the appeal was dismissed with costs.

*J. H. Rodd*, for the appeal. *J. H. Moss*, contra.

Falconbridge, C.J., Street, J., Britton, J.]

[Feb. 15.

BELLING v. CITY OF HAMILTON.

*Way—Injury to pedestrian—Defect in carriage-way—Liability of municipality—Findings of trial judge.*

The plaintiff, in crossing at night on foot a busy street in a city, did so at a point thirty feet distant from the crossing, proceeding in a diagonal direction across the carriage way. There was a hole or depression in the asphalt pavement from one and a half to one and seven-eighths inches deep at its deepest part, and the plaintiff slipped upon the edge and was injured. In an action against the city corporation for damages for negligence, the trial judge found that the accident was caused by the defendants' negligence in allowing the pavement to be and remain dangerously out of repair; that the plaintiff was not guilty of contributory negligence in crossing the street diagonally; that the street was not sufficiently out of repair to be dangerous to horses or vehicles; and assessed damages to the plaintiff.

*Held*, FALCONBRIDGE, C.J., dissenting, that the plaintiff, using the carriage-way when on foot, had no right to expect a higher degree of repair