



TORONTO, ONT., AUGUST, 1900.

THE TRADER, the official organ of the Jewelry trade of Canada, is published on the 1st of every month at 34 Lombard Street, Toronto, Ont. and has a circulation embracing every solvent Jeweler in the Dominion. Price \$1.00 per annum.

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### A NOTABLE CASE.

**A** CASE of considerable interest to Canadian manufacturers and the Canadian jewelry trade was decided not long since in the English courts, and inasmuch as the principle involved in the decision of the judge voices a complaint that has been strongly urged upon the Canadian Government by our manufacturers, it is worth more than a passing notice.

It appears from the evidence that certain so called manufacturers in England were in the habit of having the majority of their watch parts made to order for them in Switzerland; these were assembled and the watch finished in England and then sent out to the trade as "English Lever Watches." This practice was objected to by some of the bona-fide English manufacturers who make "English Lever Watches" in English factories with English labor, they claiming that such goods were really Swiss imitations of English lever watches and had no legal right to masquerade under the name of English made goods. The trial lasted about ten days, and much evidence

was given on both sides, the result, however, was that the judge decided that the defendants were guilty of applying a false trade description as to the place or country in which the watches were made. In giving the reasons for his decision the judge said: "It is not disputed that the watches in question did contain several parts of foreign manufacture, and that they are sold as English lever watches with the English hall-mark upon them. The question for me to determine is whether that trade description is false in a material respect, and after giving the matter my best consideration I have come to the conclusion that it is. The defendants have acted deliberately in what they have done, and seem to have considered the question of whether they were justified in importing the foreign parts which they have used in their watches. They maintain that they have not exceeded the limits which are allowed by statute and the custom of the watch trade. In my opinion they have exceeded those limits, and it is somewhat significant that since the summonses were taken out new machines have been introduced into the factory by the defendants for the manufacture of parts previously imported from Switzerland. The question of materiality is no doubt one of degree. It is one in which the evidence of experts is of importance, and that evidence in this case appears to me to be almost entirely in favor of the prosecution. Defendants did not call a single witness who was unconnected with their own business to say that in their opinion the foreign parts used by the defendants were so immaterial that they might be disregarded in the description. The relative cost of the foreign parts to the cost of the whole watch is an element of some importance in determining materiality. The defendants did not call the best evidence upon this point, and I am bound to assume that they refrained from calling it advisedly. It was admitted by Mr. Tucker that the train was the most essential part of the watch, and that the train in each of the watches, consisting of three wheels and four pinions, was of foreign origin, in addition to several other parts of greater or less importance. It would, in my opinion, reduce the Act to an absurdity if I were to hold that such parts were not material to a correct description of the watch, in the same way as the screws or the dial might be considered immaterial. It was contended by defendants that the train and other foreign parts used in these watches were on the same footing as the mainspring and hair-spring, which are nearly always of foreign origin in what are honestly called English watches. I think they are not on the same footing, because by the custom of the watch trade the mainspring and hair-spring are known and allowed to be of foreign origin in nearly every watch, so that no trader is deceived by their not being taken into account in the description. It was further urged for the defendants that those foreign parts need not be considered in this description, because those foreign parts were imported in the rough, because they had to be shaped, polished and fitted in this country. That plan was deliberately adopted by the defendants for some reason which is not disclosed. The evidence is that important parts were made in Switzerland according to defendants' orders, and in my opinion they were essentially made or produced in Switzerland, and the place of origin is not altered by the fact that they have had more or less work done upon them in Eng-