

Sec. 17. This section is designed to extend the relief ordinarily obtainable in civil actions in such a way as to ensure that the tortious Act cannot be readily repeated. A provision to the same effect is included in the *Trade Mark and Design Act* in respect of union labels only (Sec. 22) where the remedy is criminal instead of civil.

Sec. 18. Certain of the expressions used in the *Trade Mark and Design Act* indicate that it was intended by that Act not merely to register existing rights, but to create new rights. It purports to give to the registered owner of a trade mark an exclusive right to use it, for any purpose and against the world. The Courts, however, have generally treated registration as a mere record of rights already acquired and have refused to support, or have set aside registrations by the later of two coocurrent users, without reference to whether or not there has ever been concurrent use by both in any one province. On the other hand the common law owner of a mark who has caused it to be duly registered has been refused relief against the user of a similar, infringing mark when the latter has succeeded in effecting its registration. Moreover, a mark once properly registered cannot be expunged even if its subsequent use has been such as to deprive it of distinctiveness. In the result the effect of registration has been uncertain and it has been difficult to apply any clear general principle. The effect of this section is to minimize these difficulties. Registration under the Bill will (a) prevent any one from acquiring after registration any rights adverse to those of the owner of the registered mark, and (b) relieve him in most cases from the obligation to prove his right otherwise than by the production of the certificate of registration.