

SURVIVORSHIP.

Of right of action.—See COVENANT.

TAX SALE.

See ASSESSMENT AND TAXES, 1.

THUNDER BAY.

See COUNTY COURTS.

TITLE.

By possession.—See WILL, 1.

To land.—See COUNTY COURTS.

Time for objections to.—See VENDORS AND PURCHASERS, 3.

TRADE-MARKS AND DESIGNS.

Trade-mark — Newspaper — Infringement — Assignment of trade-mark — Registration—42 Vic. ch. 22 (D).—The L. F. P. P. Co. published a newspaper called *The Commercial Traveller and Mercantile Journal*, which was known as *The Commercial Traveller*, and registered it under the Trade Mark and Design Act of 1879 as *The Commercial Traveller's Journal*. The company sold the paper and good-will to the plaintiff, and on the negotiations for the sale the plaintiff saw the defendant, who was then employed by the company as manager and editor, and who showed him the assets of the paper, the printing contracts, &c., and recommended the purchase as a good investment.

After the sale the defendant, who

had retained the mail list of the subscribers to the paper, published a new paper called *The Traveller*, and used the list to send copies of his paper to some of the names contained therein. It was shewn in evidence that while the defendant was in the employ of the company he often used the word *Traveller* as designating the paper then known as *The Commercial Traveller*. In an action to restrain the defendant from infringing the plaintiff's trade mark, it was

Held, that the title of the paper published by the defendant was an infringement of the trade mark of the plaintiff, and that the subsequent publication by the defendant of a newspaper under the name of *The Traveller* was calculated to mislead persons, and induce them to believe the plaintiff's paper was the paper referred to.

Held, also, that although the 4th section of the Trade Mark and Design Act of 1879, 42 Vic. ch. 22 (D.), requires registration of the trade mark before the proprietor can bring an action; and the 14th section provides for registration of an assignment, the latter section does not enact that registration shall be necessary to give effect to such assignment. An injunction was therefore granted. *Carey v. Goss*, 619.

TRIAL.

Right to begin.—See INSURANCE, 3.

See also NEW TRIAL.

TRUSTS.

Express — Constructive.—See WILL, 1.