claim as tenant in common to certain property had been barred by the Statute of Limitation.

Higgins, Q.C., for appellant:—It must be assumed on the admissions that from 1833 to 1864 one tenant in common was in possession of the entirety without accounting. If the admitted subsequent payment for fifteen and a half years would raise a presumption of continuing payment, we ask for leave to adduce further evidence to prove that in fact for 20 years previously to 1865 there was no payment of a half of the rents.

BAGGALLAY, L.J.:—Mr. Higgins has applied for leave to produce additional evidence to show that these admissions do not give a correct view of the actual case, basing his application on Imp. O. 58, r. 5, (R.S.O. c. 38, sect. 22). The order gives the Court power to allow such evidence to be admitted, but only when there are special grounds, and not without special leave. What special grounds are there for the present application? That those who advised the defendant put a construction upon the admissions which they now find is not the right construction, and now want to turn round—but that is not a sufficient ground for this application.

JESSEL, M.R., and LUSH, L.J., concurred.

[NOTE.—*Imp. O. 58, r. 5, and R.S.O. c. 38, sect. 22, are, as regards the portion of them to which this case relates, virtually identical.*]

NOTES OF CANADIAN CASES.

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SUPREME COURT OF CANADA.

From Quebec.]

BERGERON v. LASCELLE.

Mandamus—41 Vict., cap. 3, sec. 63 (Q.)—42-43 Vict., cap. 3, sec. 11 (Q.)—14 Geo. III., cap. 85, sec. 5 (Imp.) still in force—"City."

In May, 1880, B. applied to L., a license inspector, to obtain a license to keep an inn in the City of Three Rivers, producing to L. the necessary certificate, and tendering him one dollar under 41 Vict., cap. 3, sec. 63, and was refused a license. By the latter Act it was provided that, in addition to the fee of $1, a fee of $200 should be paid in the Cities of Montreal and Quebec, a fee of $80 in other cities; and a fee of $70 in all incorporated towns. This was repealed by 42-43 Vict., cap. 3, and no provision was made for other cities than Montreal and Quebec. B. obtained a mandamus to compel the issue of a license.

Held, that 14 Geo. III. cap. 85, sec. 5 (Imp.), is still in force, and that B. was not entitled to a license without payment of the fee of £1 16s. prescribed thereby.

Held also, that under the above mentioned Provincial Acts, L. could not have granted a license for the City of Three Rivers, as they apply only to Montreal and Quebec, and the City of Three Rivers was not within the meaning of "all incorporated towns."

McDougall, for the appellant.

Germi, for the respondent.

BARSALOU v. DARLING.

Trade mark—Infringement.

The appellants manufactured and sold cakes of soap, having stamped thereon a registered trade mark, described as follows:—A horse's head, above which were the words "The Imperial;" the words "Trade Mark," one on each side thereof; and underneath it the words "Laundry Bar." "J. Barsalou & Co., Montreal," was stamped on the obverse side. The respondents manufactured cakes of soap similar in shape and general appearance to the appellants', having stamped thereon an imperfect unicorn's head, being a horse's head with a stroke on the forehead to represent a horn. The words "Very Best" were stamped one on each side of the head, and the words "A. Bonni, 115 St. Dominique St.," and "Laundry" over and under the head. At the trial the evidence was contradictory, but it was shown that the appellants' soap was known, asked for and purchased by a great number of illiterate persons as the "horse's head soap."

Held, (HENRY, J., dissenting), reversing the judgment of the Queen's Bench (appeal side) and restoring the judgment of the Superior Court, that there was such an imitation of the appellants' trade mark as to mislead the public, and that the appellants were entitled to an injunction to restrain the defendants from using the device adopted by them, and that the appel-