

The various Companies Acts in Canada contain various regulations regarding the use of similar names. In Ontario, the Companies Act, R.S.O. 1914, ch. 178, sec. 37, provides that the proposed name shall not be identical with that of any known company, or so nearly resembling the same as to deceive, and similar provisions are to be found in the Acts of the Dominion, and other provinces. Sec. 39 of the Ontario Act provides for changing the name of any company incorporated under the Act if it is made to appear that such name is the same as, or so similar to any existing company, partnership, or any name under which any existing business is being carried on so as to deceive. A similar power exists in Quebec, art. 6015, *et. seq.*

CANADIAN CASES ON TRADE NAMES.—In Canada, there are several decisions on this point. In *Canada Publishing Co. v. Gage*, 6 O.R. 68. 11 A.R. 402, 11 Can. S.C.R. 306, an injunction was granted restraining the defendants from using the name Beatty's New and Improved Headline Copy Book, which was considered to be an imitation of Beatty's Headline Copy Book calculated to deceive the public.

In *Rose v. McLean*, 24 A.R. 240, the name "The Canadian Bookseller and Stationer" was condemned as an infringement of "The Canadian Bookseller and Library Journal," commonly known as "The Canadian Bookseller," and the plaintiff was granted an injunction restraining the defendants from using the word "Canada" or "Canadian" conjointly with the word "Bookseller," as a title to their journal.

In the *Montreal Lithographing Co. v. Sabiston*, 3 Rev. de Jur. 403, affirmed, (1889) A.C. 610, the plaintiffs were refused an injunction restraining the defendant from carrying on business under the name Sabiston Lithographing and Publishing Company. They were the transferees of the assets and good will of the dissolved Sabiston Lithographic and Publishing Company and claimed that the name adopted by the defendants was a colourable imitation of their trade-name, and calculated to prejudice the rights of the plaintiffs. The Court of Queen's Bench for Quebec held that the appellants (plaintiffs) did not derive by purchase from the dissolved company any right to use its corporate name (a right which could only be granted by the Crown) or to continue its business. They were incorporated and registered, and had since done business under a quite different name and did not allege any intention of using, and had no right to use the old company's name as their trade or firm name. But the respondent, their Lordships held, had no right to represent himself as the successor in business to the dissolved company. This was as far as they would go.

SURNAME AS TRADE NAMES.—The use of a surname as a trade-mark is objectionable because "No person can acquire the right to use his surname as a trade-mark or trade name, to the exclusion of others bearing the same surname." Matteson, J., in *Hanson v. Halkyard*, 22 R.I. 102.

Where a surname has enjoyed extended and exclusive use, for a long period of time, a secondary meaning may be acquired by it, the benefit of which will be supported by Courts of Equity. Lord Parker, in *Registrar v. Du Cros, Ltd.*, 83 L.J. Ch. 1, said:—

"Independent of any trade-mark legislation, whenever a person uses upon or in connection with his goods some mark which has become generally known