The word "Red" and the word "Seal" may each be admitted to be *publici juris*, but when combined and applied to a specific manufacture they cease to be so, and can well be protected as trademarks. Single or more letters may also form a trademark, and more especially when combined, woven, or entwined into a monogram.

Under the Imperial Act, sec. 67, a trade mark may be registered in any colour, and the registration confers on the registered owner the exclusive right to use the same in that or any other colour, and our Act should be construed to have as extensive an application.

*Held*, also, that the fact that the plaintiff had brought a former action against the defendant which action he had discontinued upon the court expressing a view that an action could not be brought until he had registered his trademark under the 4th section of the Trademark and Design Act of 1879, did not now prevent him now that he had registered it ascertaining his right under the registration.

*Held*, also, that the account of profits which the plaintiff was entitled to should not be limited to the date of the registration, although he might not have been able to sue on the trademark till it was registered, though this act might admit perhaps of a different consideration if the defendant had infringed the trademark innocently, which however he had not in this case.

*Semble*, that it is only where a trademark has been infringed innocently that a plaintiff must register before suing.

There is no provision in the Canadian Trademark and Design Act of 1879 similar to sec. 70 of the Imperial Act of 1883, providing that a trademark, when registered, shall be assigned and transmitted only in connection with the goodwill of business concerned in the particular case in which it has been registered.

*Held*, also, that a plain seal of wax to be used on a cigar box was a good trade mark within the terms of the statute.

*Meredith*, Q.C., and *MacBeath*, for the plaintiff.

*McMichael*, Q.C., and *H. M. Wilson*, for the defendant.

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Boyd, C.] [Nov. 22.

LICENSE COMMISSIONERS v. COUNTY OF FRONTENAC.

*Canada Temperance Act—Provincial Acts in furtherance thereof—Constitutionality—Revision of the Statutes of Canada.*

*Held*, that the adoption of the Canada Temperance Act by the municipality of Frontenac has not been changed or interfered with by the revision of the Statutes.

The effect of the revision of the Statutes, though in form repealing the Act consolidated is really to preserve them in unbroken continuity.

*Held*, also, that R.S.O. c. 181, s. 92, 93, 105, 106; 41 Vict. c. 14, s. 6, 8; 44 Vict. c. 27, s. 11-14, 16; 47 Vict. c. 34, s. 34; 50 Vict. c. 33, by which ways and means are provided for the enforcement of the Canada Temperance Act by the application of local funds raised by local taxation or otherwise in the county, are not *ultra vires* of the Local Legislature.

The general law as to Prohibition respecting all Canada, which can only be enacted by the Dominion, being localized by municipal suffrages, its enforcement becomes also a matter of local importance in the Province within the meaning of the B.N.A. Act, s. 92, item 16.

*Britton*, Q.C., for the License Commissioners.

*Walkem*, Q.C., and *Agnew*, for the municipality.

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## PRACTICE.

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Chy. Div. Ct.] [Dec. 1

FARRAN v. HUNTER.

*Jury notice—Action to enforce lien on land—Severing issues.*

An action for part of the price of a machine and to enforce a lien on land for such price, with a defence of breach of warranty in the defective condition of the machine, is not distinguishable from an ordinary mortgage action to which a defence is raised. Such an action would have been in the exclusive jurisdiction of the Court of Chancery before the Judicature Act, and a jury notice is therefore