

with any such business within the same limits for the same period. I find as a fact that the defendant has been guilty of a breach of both the provisions of this covenant—that he has in fact engaged in a business for the manufacture of metal weather strips within the city of Hamilton within the last two years, and therefore within the period in which he undertook he would not engage in that business. The defendant bought a machine for the purpose of manufacturing weather strips. He bought it in his own name. It was invoiced to him. He received it and paid for it. It was installed in a building belonging to the defendant's wife. It has been seen there, not in operation, but with pieces of weather-strip lying around it, indicating that it had been in operation. The defendant has stated in the witness-box that his son and not he has been engaged in the manufacture of weather-strips in the city of Hamilton. This, I find, is a mere pretence. There is nothing but the evidence of the defendant to support his statement, and the facts admitted by him make it clear to my mind that not his son but he himself is and has been engaged in this business. He also broke the second provision of the covenant in allowing his name to be used in connection with the business of manufacture by advertising in a Hamilton newspaper stating that "the original William Peace" would instal "new 1910 weather-strips." These were weather-strips manufactured by himself. The defendant purchased weather-strips manufactured under a patent of invention granted to him in the United States and transferred to a Peace Company in the United States. The material which he so purchased he used in or within five miles of the city of Hamilton. This was in breach of his agreement. The only party having the right to manufacture and sell the invention of the defendant in Canada was the plaintiff company. Not deciding for the present whether there was an actual infringement of the plaintiff's rights in the weather-strip and rail which have been latterly in use by the defendant, I think the plaintiffs are entitled to a declaration that the defendant has engaged in business in breach of his covenant as I have stated, and that the plaintiffs are entitled to an injunction restraining him in the terms of his agreement for the balance of the period of ten years from engaging in any business for the manufacture of metal weather-strips within the said city of Hamilton or within five miles of the limits of said city,