

"Royal National" is an imitation or infringement of the plaintiffs' registered design, and I think it is. I confine myself to that issue, and I hold myself free to deal, upon its merits, with any other case that may arise.

Now, as to the remedy. I think the plaintiffs are entitled to an injunction against the manufacture and sale of the "Royal National" stove in the form in which it has been manufactured and with the design adopted by the defendants. I do not say that the defendants are not entitled to manufacture a stove to be called the "Royal National," only that they are not to manufacture it in the form and with the design shewn in evidence in this case. I agree with Mr. Henderson that if an injunction should be granted there should also be an order to expunge from the register of industrial designs the defendants' registration of the "Royal National." There will be such an order.

On the question of the disposition to be made of the "Royal National" stoves already manufactured by the defendants, I understand the parties to say that it is possible that they can come to an agreement as to that; but if they are not able to do so, there will be a reference to the Registrar to ascertain how many there are of such stoves; and the question of the disposition to be made of them will be reserved until after his report is made.

I think the plaintiffs are entitled to their costs, to be taxed.

O'Connor, Hogg, & Magee, Ottawa, solicitors for plaintiffs.

MacCraken, Henderson, & McDougal, Ottawa, solicitors for defendants.

OSLER, J.A.

APRIL 28TH, 1902.

C. A.—CHAMBERS.

McCLURE v. TOWNSHIP OF BROOKE.

BRYCE v. TOWNSHIP OF BROOKE.

*Drainage Referee—Official Referee—Jurisdiction—Judicial Officer—  
Leave to Appeal.*

Motion by defendants for leave to appeal from the judgment of a Divisional Court (FALCONBRIDGE, C.J., STREET, J.), *ante* p. 274.

J. H. Moss, for defendants.

G. H. Watson, K.C., for plaintiffs.

OSLER, J.A.—There is a plain and weighty reason for giving leave to appeal in this matter, *viz.*, that the judgment in question involves the status, jurisdiction, and authority of a judicial officer, and the validity of proceedings which