

the instructions to Lord Dorchester as Governor of Lower Canada. Since the passage of the Union Act of 1840 grants of the public domain in that Province have been made under the authority of the Provincial Legislature and subject to all such statutory restrictions as have been from time to time imposed

3. Under the decisions of the Seigniorial Court, constituted under the Seigniorial Act of 1854, together with the provisions of Art. 538 C.N. and of Art. 400 C.C.P.Q., navigable rivers are considered as being dependencies of the Crown domain and as such inalienable and imprescriptible. Hence all grants purporting to create rights in the bed of such rivers must be construed as subject to the exercise of the *jus publicum* at all times.

Cassels, J.]

[December 19, 1914.

IN RE MICKELSON SHAPIRO CO. AND HENRY DOERR, AND
MICKELSON DRUG AND CHEMICAL CO. AND ANTON MICKELSON.

Trade mark—Application for—Drawing—Infringement—Limited jurisdiction of the Exchequer Court of Canada—Passing off—Remedy.

In applying for a trade mark under the Canadian statute the applicant must describe in writing what he claims as his mark. A drawing must also be filed. But the claim in the written application cannot be extended by reason of something appearing in the drawing which has not been claimed.

2. The Exchequer Court of Canada has jurisdiction to restrain any infringement of a trade mark, but has no jurisdiction to entertain an action seeking damages for passing off goods of the plaintiff as those manufactured and sold by the defendant.

3. Trade mark for gopher poison, registered in Canadian Trade Mark Register No. 56, folio 13,708, ordered to be expunged.

W. L. Scott, for plaintiffs. F. H. Chrysler, K.C., for defendants

Audette, J.]

[November 19, 1914.

THE QUEBEC, MONTREAL AND SOUTHERN RAILWAY COMPANY
v. THE KING.

Railway—Insolvency—4-5 Edw. VII. ch. 158—Sale under order of Exchequer Court—Effect of—7-8 Edw. VII. ch. 63—Subsidy—Discretion of Governor-in-Council as to paying same—Order-in-Council and contract to pay subsidy based on mistake of fact—Invalidity.

The South Shore Railway, along with the Quebec Southern