

REPORTS AND NOTES OF CASES.

Dominion of Canada.

EXCHEQUER COURT OF CANADA.

Burbidge, J.] [Oct. 4, 1905.

SHARPLES v. NATIONAL MANUFACTURING CO.

Cream separators—Improvement on old device—Narrow construction.

The invention in question consisted in the substitution of an improved device for one formerly in use as part of a machine (in this case a tubular cream separator).

Held, that the patent must be given a narrow construction and be limited to a device substantially in the form described in this patent and specification.

Masten, for plaintiff. *White*, K.C., and *Delahage*, for defendants.

Burbidge, J.] [Oct. 4, 1905.

BRITISH & FOREIGN MARINE INS. CO. v. THE KING.

Public work—Collision with entrance pier to canal—Negligence in construction—Liability of Crown.

One of the entrance piers to a Government canal was so constructed that a sub-structure of masonry rested on crib-work. The base of the pier was set back three feet from the edge of the crib-work, which left a step or projection under water between the masonry and the side of the crib-work. It was necessary for vessels to enter the canal with great care, at this point, owing to the eddies and currents that existed there. The proper course, however, for vessels to steer was marked by buoys. A vessel on entering the canal touched another pier than the one in question, and then, taking a sheer and getting out of control, swung over and came in collision with this pier.

Held, 1. Upon the facts proved the accident was caused by the vessel being caught in a current or eddy and so carried against the pier.

2. As there was no negligence by any officer or servant of the Crown as to the location and the method of construction of this pier, the Crown was not liable for damages arising out of the collision.

German, K.C., for, suppliants. *Newcombe*, K.C., for respondent.