

Audette, J.]

[March 17.

CANADIAN RUBBER COMPANY *v.* COLUMBUS RUBBER COMPANY.*Trade-mark—Infringement—Similarity of mark—Injunction—Damages.*

Plaintiff company was the duly registered owner of a general trade-mark consisting of an effigy of Jacques Cartier surrounded by the words "The Canadian Rubber Company of Montreal, Limited." The plaintiff, and its predecessor in title, had been for years large manufacturers of rubber footwear to which this mark was applied. It was established that so well-known was the mark in the trade that customers of merchants handling the plaintiff's goods in the province of Quebec would ask for them by the name of the "Jacques Cartier," the "Canadian" or the "Sailor." In June, 1912, the defendant company proceeded to manufacture and sell a certain class of rubber footwear with the effigy of a sailor closely resembling that of Jacques Cartier in the plaintiff's trade-mark, surrounded with the words, "Columbus Rubber Company of Montreal, Limited" in a scroll chiefly differing from the one used by the plaintiff in that it was rectangular in form while that of the plaintiff was round. Defendant's mark was not registered.

*Held*, that there was such a similarity between the defendant's mark and that of the plaintiff as to be calculated to deceive the public into purchasing the defendant's goods for those of the plaintiff, and that the defendant should be enjoined from placing on the market and selling rubber footwear and goods bearing the mark as above described.

2. That there should be a reference to the Registrar to ascertain what damages were sustained by the plaintiff by reason of the defendant's interference with its business.

*T. C. Casgrain*, K.C., and *Stairs*, for plaintiff. *A. Geoffrion*, K.C., for defendant.

Audette, J.]

[April 2.

IN RE DAVID HARRISON AND THE KING.

*Negligence—Public work—Ice on approach—Injury to the person—Liability.*

Suppliant sustained bodily injury by falling whilst walking over the footpath on one of the approaches to the Seigneur street