

and sold them for many years in the United States and Canada under that designation

Held, that the company was entitled to register the word "Bucyrus" as their trade mark for use in connection with such goods.

For some years the Canada Foundry Co. was agent in Canada for selling the "Bucyrus" goods and built up a large business for their principals. After their agency terminated they applied the designation "Canadian Bucyrus" to similar goods of their own manufacture and eventually registered these words as a trade mark for such goods.

Held, that such trade mark should be expunged from the registry.

The judgment of the Exchequer Court, 14 Ex. C.R. 35, was affirmed.

Appeal dismissed with costs

J. K. Kerr, K.C., and *J. A. Paterson*, K.C., for appellants.
D. L. McCarthy, K.C., for respondents.

Province of Nova Scotia.

SUPREME COURT.

Full Court.]

[Feb. 5.

HARRISON *v.* MADER.

MADER *v.* HARRISON.

Physicians—Agreement for employment followed by partnership—Construction—Partnership at will—Arbitration and award—Award outside terms of submission—Held void—Agreement not capable of enforcement.

An agreement in writing entered into between two medical practitioners provided for the employment of the one as assistant to the other for the period of two years for a specified sum in cash and a percentage of the net proceeds earned and received during the said years.

Held, affirming the judgment of the trial judge that before the commission became payable the money must be received as well as earned, though it need not be received in the same calendar year in which it was earned.