

recovered in New York was to recover a debt due by a company of which the defendant was a director, and for which, by a law of that state, he was made personally liable for having made false representations. The defendant set up as a defence that the judgment sued on was for a penalty, and therefore, the action being of a penal character, ought not to be entertained by the court of this Province. Street, J., who tried the action, gave effect to this defence, and Burton and MacLennan, J.J.A., agreed with him. Hagarty, C.J., and Osler, J.A., thought the action was not a penal action within the principles of international law, and that the action was maintainable. With the latter view the Privy Council agree, and in the judgment of the committee, delivered by Lord Watson, the distinction is drawn between penalties imposed by statutes for the benefit of the state and penalties imposed for the benefit of private individuals; and while the former are held to come within the class of penal actions which cannot be enforced in a foreign country, the latter are held not to come within that category. It may be noted that the decision of the Supreme Court of Maryland in *Huntington v. Attrill*, 70 Mar. 191, in which precisely the same question was raised, and in which that court adopted the opposite view, is dissented from by the Privy Council.

LAND TRANSFER ACT—EASEMENT—OMISSION OF EASEMENT FROM CERTIFICATE—
ABANDONMENT OF EASEMENT—EVIDENCE.

James v. Stevenson, (1893) A.C., 162, although an appeal from the Supreme Court of Victoria, is deserving of attention as bearing on the construction of the Ontario Land Titles Act (R.S.O., c. 116), which is to some extent founded on the Australian Act, and intended to give effect to a similar system of land transfer. The dispute in this case was in reference to a right of way which the plaintiffs claimed by express grant to their predecessors in title. In the certificates of title which had been granted both of the plaintiffs' land and the defendants' land no mention was made of this easement, and two questions were presented for decision on appeal. First, whether the evidence of abandonment of the right of way was sufficient; and, second, whether the omission of any mention of the easement from the certificates of title defeated the plaintiffs' claim thereto. The evidence on the first point merely established non-user by the plaintiffs and user