

expired at the expiry of the six years when no steps were taken by the inventor for its renewal.

Held,—1. The Canadian patent was void.

2. The words "Foreign patent," as used in the above enactment include all patents that are not Canadian.

3. The word "exists" has reference to the date or time when the Canadian patent is granted, not when it is applied for.

4. The words "shall expire at the earliest date on which any foreign patent for the same invention expires" are not to be limited to the expiration by lapse of time of the potential term of the foreign patent, but include any ending at a time earlier than the end of the term for which the patent is granted.

Rowan and Ross, for plaintiffs. *Mcemaster and MacLennan*, for defendants.

Burbidge, J.]

McHUGH v. THE QUEEN.

[May 7.

Public Work—Bridge—Maintenance—Minister of Public Works—50-51
Vict., c. 16, s. 16 (c).

There is nothing in the Public Works Act (R.S.C. c. 36) in relation to the maintenance and repair of bridges belonging to the Dominion Government, by the Minister of Public Works, which makes him "an officer or servant of the Crown" for whose negligence the Crown would be liable under sub-s. (c) of s. 16 of the Exchequer Court Act.

J. A. Loughred, Q.C., for suppliant. *E. L. Newcombe*, Q.C., for respondent.

Burbidge, J.]

[May 16.

REG. EX REL. ATTORNEY-GENERAL FOR THE DOMINION v. FITZGIBBON
AND THOURET.

Revenue Laws—The Customs Act, s. 192—Penalties—Jurisdiction of Exchequer Court—Discretion of Judge—Remission of Penalty.

The penalty enforceable under the provisions of s. 192 of the Customs Act in the Exchequer Court is a pecuniary one only, the other remedies open to the Crown thereunder cannot be prosecuted in this Court.

2. The Court has no discretion as to the amount of the penalty recoverable under such enactment.

3. If a case is established against any defendant the whole penalty prescribed by the statute must be enforced. The power of remitting such penalty is vested in the Governor in Council by The Audit Act, R.S.C., c. 29, s. 78. In view of this state of the law, it is proper for the Crown, if it sees fit, during the pendency of an action for penalties, to agree upon terms of settlement of the action with the defendant; but those acting on behalf of the Crown should see that the judgment asked for in confirmation of the