

EXCHEQUER COURT.

Burbidge, J.]

[April 17.

IN RE METROPOLITAN RAILWAY COMPANY.

*Railways—Making order of Railway Committee of Privy Council a rule of Exchequer Court—Condition—Ex parte order.*

This was an application of the above railway to connect its tracks with the tracks of the Canadian Pacific Railway Company by means of a switch in the City of Toronto.

By s. 29 of the Railway Act, 51 Vict., c. 17, the Exchequer Court is empowered to make an order of the Railway Committee of the Privy Council a rule of Court; but where there are proceedings depending in another Court in which the rights of the parties under the order of the Railway Committee may come in question, the Exchequer Court, in granting the rule may suspend its execution until further directions.

2. The Court refused to make the order of the Railway Committee in this case a rule of Court upon a mere ex parte application, and required that all parties interested in the matter should have notice of the same.

*Barwick, Q.C., and Glynn Osler, for motion. H. L. Drayton, contra.*

Burbidge, J.]

[May 7.

GENERAL ENGINEERING COMPANY v. DOMINION COTTON MILLS COMPANY.

*Patent—Expiry of Foreign Patent—R.S.C., c. 61, s. 8—55-56 Vict., c. 24, s. 1—Construction—"Foreign Patent"—"Exist."*

By the Patent Act, R.S.O., c. 61, s. 8 (as amended by 55-56 Vict., c. 24, s. 1) it is enacted that "under any circumstances, if a foreign patent exists, the Canadian patent shall expire at the earliest date on which any foreign patent for the same invention expires." J. filed an application for a Canadian patent for new and useful improvements in boiler and other furnaces on the 1st of March, 1892. On the same day he applied for a British patent and also for an Italian patent in respect of the same invention. The British application was accepted on the 30th April, 1892, and the patent issued on the 12th July, but was dated, as is the practice in England, as of the date of the application, viz., 1st March, 1892. The Italian patent was issued on the 19th of March, 1892, and was granted for a term of six years from that date. The Canadian patent was granted on the 15th October, 1892. The British patent became forfeited for non-payment of certain fees and annuities due thereon on the 1st March, 1897. The inventor was in default in respect of payment of fees on the Italian patent in 1895, and while there was some doubt whether such default operated a forfeiture ipso facto under the Italian law, there was no doubt that it