

each township. The council then passed a by-law authorizing the work to be done, which was afterwards set aside on the ground that the removal of an artificial obstruction was not contemplated by the law then in force (s. 570 of the Municipal Act, 1883). In 1886 the Act was amended and a fresh petition was presented to the council of Elizabethtown which again instructed the engineer to examine the creek and report. The engineer did not again examine it (its condition had not changed in the interval), but presented to the council his former report, plans, specifications and assessment, and another by-law was passed under which the work was done. In an action to recover from Augusta its proportion of the assessment:—

Held, affirming the judgment of the Court of Appeal (2 O.L.R. 4), STRONG, C.J., dissenting, that the amendment in 1886 to s. 570 of The Municipal Act, 1883, authorized the council of Elizabethtown to cause the work to be done and claim from Augusta its proportion of the cost.

Held, further, reversing said judgment, that the report of the engineer was sufficient without a fresh examination of the creek and preparation of new plans and a new assessment. Appeal allowed with costs.

Watson, K.C., and *H. A. Stewart*, for appellant. *J. A. Hutcheson*, for respondent.

EXCHEQUER COURT OF CANADA.

Barbidge, J.] HAMBLY v. ALBRIGHT & WILSON. [March 20.

Patent for invention. Process for manufacturing phosphorus—Importation and non-manufacture.

Held, 1. Sec. 37 of The Patent Act (which provides that a patent shall be void at the end of two years from the date thereof unless the patentee, his legal representative or assignee, within that period or any authorized extension thereof commence and continuously carry on in Canada the construction or manufacture of the invention patented in such a manner that any person desiring to use it may obtain it or cause it to be made for him at a reasonable price at some manufactory or establishment for making or constructing it in Canada) does not apply when the invention is for an art or process.

2. A patentee is not in default for not manufacturing his invention unless or until there is some demand for it with which he has failed to comply or unless some person has desired to use or obtain it and has been unable to do so at a reasonable price; and where the invention is a process only the patentee satisfies the statute and the condition of his patent by being ready to allow the process to be used by anyone for a reasonable