

JAMES MOIR (PETITIONER) APPELLANT; 1891
 AND *Nov. 10, 11.
 THE CORPORATION OF THE VIL- }
 LAGE OF HUNTINGDON (RES- }
 PONDENT), AND THE HON. J. E. } RESPONDENTS.
 ROBIDOUX, *es qual*..... }

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR
 LOWER CANADA (APPEAL SIDE.)

*By-law—Appeal as to costs—Jurisdiction—Supreme and Exchequer Courts
 Act, sec. 24.*

Since the rendering of the judgment by the Court of Queen's Bench refusing to quash a by-law passed by the corporation of the village of Huntingdon, the by-law in question was repealed. On appeal to the Supreme Court of Canada :—

Held, that the only matter in dispute between the parties being a mere question of costs, the court would not entertain the appeal.
 Supreme and Exchequer Courts Act, sec. 24.

APPEAL from a judgment of the Court of Queen's Bench for Lower Canada (appeal side).

The appellant James Moir, on May 8th, 1890, petitioned the Circuit Court for the county of Huntingdon to quash the by-law No. 105 which had been enacted on April 8th, preceding, by the Municipal Council of Huntingdon. The petition set forth eight alleged reasons for quashing the by-law, but the argument resolved itself into one question only, viz: whether Art. 561 of the Municipal Code is within the power of the legislature. The Attorney General intervened under Art. 5856 of the Revised Statutes of Quebec. The judgment of the Circuit Court (Belanger J.) rendered the 26th May, 1890, granted the petition, declared

*PRESENT :—Sir W. J. Ritchie C.J., and Strong, Fournier, Taschereau, Gwynne and Patterson JJ.

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art. 561 *ultra vires* of the legislature, and quashed the by-law.

Both the corporation and the Attorney General appealed from this judgment, with the result that the judgment was unanimously reversed, and art 561 of the Municipal Code was declared *intra vires*. From this judgment of the Court of Queen's Bench the petitioner Moir now appeals.

Smith counsel for the respondent's moved to quash the appeal on the ground that the case had not originated in the Superior Court.

D. C. Robertson and A. E. Mitchell, *contra*.

In reply *Smith* stated to the court that since the rendering of the judgment by the Court of Queen's Bench the by-law in question had been repealed, therefore the matter now in controversy was a mere question of costs.

Mr. *Laurendeau* appeared for the Attorney-General.

Per Curiam. The court will not entertain an appeal from any judgment for the purpose of deciding a mere question of costs. The appeal will be dismissed with costs.

Appeal dismissed with costs.

Solicitors for appellant: *Mitchell and Robertson*.

Solicitors for respondent: *MacLaren, Leet, Smith & Smith*.

Solicitors for Attorney General: *Seers & Laurendeau*.