

doubts in adopting the findings of the trial judge; it did not appear that the non-production by plaintiff of material documents was taken into consideration; and the intermediate court gave weight to a piece of undoubtedly illegal evidence.

Appeal allowed with costs.

Trenholme, Q.C. & Lafleur for the appellant.

Béique, Q.C., and Geoffrion, Q.C., for respondents.

Quebec].

9 Dec., 1895.

CORPORATION OF STE. CUNÉGONDE V. GOUGEON.

Appeal—Municipal by-law—Judgment of Superior Court on petition to annul—Appeal to Court of Queen's Bench—53 Vic. c. 70, s. 310—40 V., c. 29, s. 439—Jurisdiction of Queen's Bench—Judgment quashing appeal—Appeal to Supreme Court from.

Sec. 310 of the special Act of Incorporation of the City of Ste. Cunégonde de Montréal (53 V., c. 70) permits any municipal elector, by petition to the Superior Court, to demand and obtain the annulment of any by-law of the city on the ground of illegality. By 40 V. c. 29, s. 1 (Town Corporations Act) the provisions of said chapter apply to every town, corporation or municipality which might thereafter be established by the legislature and constitute part of the special act relative thereto, unless expressly modified or excepted, and by sec. 439 of the latter act, "no appeal shall lie under the provisions of this act from any judgment rendered by any judge of the Superior Court respecting municipal matters."

A petition was presented to the Superior Court to annul a by-law of the Corporation of Ste-Cunégonde and the prayer was granted. The Corporation appealed to the Court of Queen's Bench, which held that said sec. 439 of the Town Corporations Act not having been excluded from the City charter was to be read as forming part of it, and that the court had no jurisdiction to entertain the appeal. The corporation then sought to appeal to the Supreme Court of Canada.

Held, affirming the decision of the Court of Queen's Bench, that an appeal would not lie to that court from the judgment of the Superior Court.

Held further, that no appeal would lie to the Supreme Court