

The application was dismissed by Middleton, J., and his decision was upheld by a Divisional Court, Riddell, J., dissenting, and this is an appeal from that decision. Since it was lodged, there has been a change in the personnel of the township council, and there is now reason to believe that they will not support the by-law before this Court. Under these circumstances the continuation school board desires an opportunity of being heard in its support. The board was not made a party to, or notified of the application to quash the by-law. It is quite apparent that the interest of the board in the money to be raised by the debentures under the by-law is of a sufficiently substantial kind to have justified its being made a party to the application to quash. If not an absolutely necessary party, it was at all events a proper party.

In these circumstances, if the township were appellants instead of respondents, and were proposing not to further prosecute the appeal, the school board would have little difficulty in procuring themselves to be substituted as appellants, or to be permitted to carry on the appeal. The practice in such a case was considered by this Court in *Langtry v. Dumoulin*, 11 A.R. 544, at p. 549. The application was refused on the ground that the applicants had no interest, and that the defendant Dumoulin was solely interested, and so was *dominus litis*. But, on application to the Supreme Court, the applicants were allowed to appeal *per saltum* to that Court, apparently on the ground that the defendant was not solely interested, but was in some sense a trustee for the applicants: see head-note to report of the case in the Supreme Court *sub nom.* *Dumoulin v. Langtry*, 13 S.C.R. 258.

A somewhat similar application was allowed by a Divisional Court in *Re Ritz and Village of New Hamburg*, 4 O.L.R. 639.

There appears to be no good reason why the same course should not be pursued in the case of a respondent, where it appears that there is an interest proper to be supported, and that the withdrawal of the party by whom it has hitherto been protected leaves it practically unrepresented before the Court.

In the case of *Re Billings and Municipal Council of the Township of Gloucester*, 10 U.C.R. 273, upon the argument of a rule nisi to quash a by-law authorising the subscription of shares in the capital stock of a railway company, the Court declined to hear counsel on behalf of the company, upon the ground that the rule did not call upon the company. But in the case of *Re McKinnon and Corporation of the Village of Caledonia*, 33 U.C.R. 502, at p. 507, the Court in discharging a