

## SUPREME COURT OF CANADA.

Ottawa, 13 Oct.. 1894.

Quebec.]

## McKAY v. HINCHINBROOKE.

*Appeal—Supreme and Exchequer Courts Act, R. S. C., ch. 135, secs. 24 and 29—Costs.*

*Held*, that a judgment in an action by a ratepayer contesting the validity of a homologated valuation roll (a), is not a judgment appealable to the Supreme Court of Canada under section 24 (g) of the Supreme and Exchequer Courts Act; (b) and does not relate to future rights coming under sub-sec. (f) of sec. 2, of the Supreme and Exchequer Courts Act.

*Held*, also, that the valuation roll sought to be set aside in this case having been duly homologated and not appealed against within the delay provided in art. 1061 M. C., the only matter in dispute between the parties was a mere matter of costs, and therefore the Court would not entertain the appeal,—following *Moir v. Corporation of the Village of Huntingdon* (19 Can. S. C. R. 363).

Appeal dismissed with costs.

*Geoffrion, Q. C., & Brossoit, Q. C., for appellant.*

*Maclaren, Q. C., & Laurendeau, for respondents.*

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9 October, 1894.

Quebec.)

## BURY v. MURRAY.

*Absolute transfer—Commencement of proof by writing—Oral evidence  
—When inadmissible—Arts. 1233, 1234 C. C.—Prête-nom—  
Compensation—Defence—Taking advantage of one's own wrong.*

Verbal evidence is inadmissible to contradict an absolute notarial transfer, even where there is a commencement of proof by writing not amounting to a full admission. Art. 1234 C. C.

A defendant cannot set up by way of compensation to a claim due to plaintiff, a judgment (purchased subsequent to the date of the action) against one who is not a party to the cause, and for whom the plaintiff is alleged to be a *prête-nom*.

In an action to recover an amount received by the defendant for the plaintiff, the defendant pleaded, *inter alia*, that the action was premature inasmuch as he had got the money irregularly