

The respondents pleaded:—

1. That no appeal lay from the judge's decision.
2. That the writ of prohibition was not available in the present instance.
3. That the commissioner's appointment is valid.

As an additional ground the appellants argued that it is the Imperial Extradition Act (33-34 Viet., chap. 52), which governs us, and that, under that act, police magistrates alone have the right to try extradition matters.

Does an appeal lie from Mr. Justice Davidson?

Art. 1006, C.P., grants an appeal from the final judgment, on a writ of prohibition. This includes an appeal from the decisions rendered by a judge in chambers. (C.P., art. 72.)

The respondents have argued that this court cannot authorize the issue of the writ, because that power is given to a judge of the Superior Court exclusively.

In granting an appeal, the law intends that the judgment of the Court of Appeal should be effective, and that the court may apply the remedy the appellant asks for. That is the reason why it authorizes us to substitute ourselves for the judge who has rendered the decision.

We hold that the appeal lies. Consult on this first point: Ch. de Fer de la Vallée Est du Richelieu and Menard, R.J.Q., 7 Q.B. 486; Gain vs. Bartels, 1 Q.P.R. 531; Lachance vs Paroisse de Ste. Anne, R.J.Q., 10 K.B. 223.

Does the writ of prohibition lie?

The respondents say that the proper remedy is a *quo warranto*, because, if Mr. Lafontaine is not legally appointed a commissioner, he has usurped a public office, and his right to it can be attacked only by way of *quo warranto*. (C.P., art. 987.)

And the respondents further argue, that, in any event, the writ of prohibition, like the writ of *mandamus* (C.P., 1003), lies only in the case where there is no other remedy equally convenient, beneficial, and effectual (C.P., 992), and that,