

part thereof, and that, under its charter, petitioner had the power to acquire immovable rights and property for municipal purposes, and that the petition in expropriation of the right of way in question was in the interests of the municipality as, according to the evidence of record, no other means of communication would be equally convenient to give the public access to the wharf which the Dominion Government proposed to erect on the bank of the Richelieu river for the accommodation of the town of St. Ours, and, access to which wharf, petitioner alleged, was necessary for the purposes of petitioner.

The majority of the Court of Appeal reversed this judgment, Messrs. Justice Trenholme and Cross were of opinion to dismiss the appeal. Although agreeing to reverse this judgment, Mr. Justice Carroll would not grant costs on an interlocutory judgment of the 14th. June, 1910.

*Laverne, J.* — "The question raised in the present case is one respecting expropriation proceedings to secure a right of way, for the public, over appellant's property for the purposes of effecting means of communication between a street and a wharf which the Dominion Government proposes to build on the Richelieu River within the limits of the town of St. Ours. These expropriation proceedings by the respondent are based upon its charter, 29-30 Vict., 1866, ch. 60, sects. 53 and 54.

"Section 53 is as follows: "The said council shall have power to purchase and acquire out of the revenues of said town all such lots, lands and real property, whatsoever within the said town as they shall deem necessary for the opening or enlargement of any street, public square or market place, or the erection of any public, or generally any object of public utility of a municipal nature."