

judgment appealed from, reversing the judgment of the Superior Court, held that the by-law was *intra vires*.

On motion to quash,

*Held*, that the proceedings being in the interest of the public, equivalent to the motion or rule to quash of the English practice, the court had jurisdiction to entertain the appeal, under sub-sec. g, of sec. 24, ch. 135 R. S. C. *Sherbrooke v. McManamy* (18 Can. S. C. R. 594) and *Verchères v. Varennes* (19 Can. S. C. R. 356) distinguished.

Motion refused with costs.

*Brown, Q. C.*, for motion.

*Panneton, Q. C.*, contra.

9 October, 1894.

Ontario.]

TRENT VALLEY WOOLLEN MFG. CO. v. OELRICHS.

*Sale of goods by sample—Right of inspection—Place of delivery—Sale through brokers—Agency.*

C. & Co., brokers in New York, sent a sample of wool to the T. Mfg. Co. at Campbellford, in Canada, offering to procure for them certain lots at certain prices. After a number of telegrams and letters between the company and C. & Co., the offer was accepted by the former at the price named for wool "laid down in New York," and payment was to be in six months from arrival of wool at New York without interest. Bought and sold notes were respectively delivered to the company and the brokers, the latter signing the sold note. The wool having arrived the company would only accept it subject to inspection when it reached their place of business in Canada, to which the seller would not agree, and it was finally sold to other parties and an action brought against the company for the difference between the price realized on such sale and that agreed on with the brokers.

*Held*, affirming the decision of the Court of Appeal for Ontario (20 Ont. App. R. 673), that the brokers could be considered to have acted as agents of the company in making the contract, but, if not, the company having never objected to the want of authority in the brokers nor to the form of the contract, must be held to have acquiesced in the contract as valid and duly authorized.