

in which there is such an issue as that raised on the motion to quash in this case the facts which the appellants desire to establish might be admissible in evidence, I am of opinion that they have so slight a bearing upon the question of the validity of the by-law as to be practically a negligible quantity.

In view of this, I do not think that the Court should permit the inquiry into the business transactions with the express company of persons not parties to the litigation which the appellants desire to enter upon; and even in the case of the applicant and Sing Lung, though they have made affidavits, and the inquiry, as far as their transactions with the express company are concerned, might tend to shew that their statements as to their income from their businesses are untrue, there is no reason why the same conclusion should not be reached. Besides, the Court should set its face against permitting unnecessarily to be increased the costs of litigation, as they would be if such an inquiry as is desired were to be permitted to be had.

In my view, the question as to what the Chinese laundrymen can earn in their business in Chatham affords no test for determining the validity of the by-law. On the statements of the applicant and Sing Lung, the real complaint is not against the \$50 license fee, but against the provision of the by-law which it is said renders it necessary for the laundrymen to live elsewhere than in their laundries. That is a provision passed or assumed to be passed to safeguard the public health, and the question whether, if it is enforced, the Chinese laundrymen will not be able to continue in business, for the reasons assigned by the applicant, has practically no bearing on the issue between the parties.

In my view, the ends of justice will be best served by dismissing the appeal. As the question raised by it is to some extent a new one, it will be proper to make no order as to the costs of the appeal.

CLUTE, J.

JUNE 27TH, 1910.

RAY v. WILLSON.

Promissory Note—Incomplete Instrument—Delivery—Holder in Due Course—Bills of Exchange Act, secs. 31, 32—Fraud—Suspicion—Duty to Inquire.

Action to recover \$1,000 upon what was alleged to be a promissory note made by the defendant.