

ANDREW VALIANTE (PETITIONER) APPELLANT;

1927
Feb. 1.

AND

LESLIE GORDON BELL (DEFENDANT) . . . RESPONDENT.

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
PROVINCE OF QUEBEC

Appeal—Jurisdiction—Election petition—Irregularity—Dismissal by one judge before trial—Dominion Controverted Elections Act, as amended by 5 Geo. V, c. 13.

The Supreme Court of Canada has no jurisdiction to entertain an appeal from a judgment rendered by a judge of the Superior Court in Quebec dismissing an election petition for irregularity upon a motion presented before trial.

Under the *Dominion Controverted Elections Act*, no appeal lies to the Supreme Court of Canada except from the final judgment or decision of the judges who have tried the petition.

MOTION to quash for want of jurisdiction an appeal from the judgment of Bruneau J., a judge of the Superior Court, at Montreal, maintaining respondent's motion to dismiss an election petition.

The appellant presented a petition under the *Dominion Controverted Elections Act* and complained of the undue election or return of the respondent as member of the constituency of Montréal-St. Antoine. After the service of the petition, the respondent presented to a judge of the Superior Court, in Montreal, a motion to dismiss the election petition as not being drawn in conformity with the *Dominion Controverted Elections Act*, and more particularly because it did not contain any details of the complaint relied upon by the petitioner, as required by s. 4 of c. 13 of 5 Geo. V. The respondent's motion was granted and the election petition was dismissed with costs. The appellant then appealed to the Supreme Court of Canada.

Section 64 of the *Dominion Controverted Elections Act*, as substituted by s. 13 of c. 13 of 5 Geo. V, reads as follows:

64. An appeal shall only lie after the final decision of the court after the trial of an election petition. If any party is dissatisfied with such

*PRESENT:—Anglin C.J.C. and Duff, Mignault, Newcombe and Rinfret JJ.

1927
VALIANTE
BELL.

decision, an appeal shall lie to the Supreme Court of Canada from the judgment or decision on any question of law or of fact of the judges who tried the petition.

Paul St. Germain K.C. for the motion.

D. F. Ryan K.C. and *J. P. Callaghan contra.*

The judgment of the court was delivered orally by the Chief Justice, at the conclusion of the argument, as follows:

“We are all of the opinion that there is no jurisdiction to entertain this appeal. The motion to quash is granted with costs.”

Appeal quashed.
