

T. McVeity, Ottawa, for defendants the corporation of the City of Ottawa.

THE COURT (BOYD, C., MACMAHON, J., MEREDITH, J.), dismissed the appeal without costs.

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Moss, C.J.O.

JANUARY 18TH, 1905.

C.A.—CHAMBERS.

CANADA CARRIAGE CO. v. LEA.

*Appeal—Court of Appeal—Leave to Appeal from Judgment at Trial—Grounds.*

Motion by defendants for leave to appeal directly to the Court of Appeal from the judgment given at the trial.

Moss, C.J.O.—The defendants desiring to appeal from the judgment of the trial Judge have made application under sec. 76 (a) of the Judicature Act, as enacted by 4 Edw. VII. ch. 11, sec. 2, for leave to appeal directly to this Court.

The nature of the case and the amount involved render it one in which an appeal would lie from this Court to the Supreme Court of Canada. But this alone is not a sufficient ground for granting the leave sought. The applicants must shew some reasonable ground for depriving the respondents of the right which the statute has given them of requiring the applicants to first carry their case to a Divisional Court. If the respondents give their consent, no further question arises. But, if they withhold their consent, as they have a right to do, it is for the applicants to present some substantial reasons why the usual course should not be pursued. It is not expedient to attempt to lay down rules or suggest special instances. Every case must be governed by its own circumstances.

In the present case the amount involved exceeds \$3,000. There are questions of some nicety and importance under the Assignments and Preferences Act, which are fairly debatable, and as to which the opinion of this Court is sought. Looking at the whole case, I think it is a proper one in which