

time for nominating candidates has expired, and may declare another whose papers are sufficient, elected by acclamation.

Appeal dismissed with costs, DUFF, J., dissenting.

Mignault, K.C., and *Atwater*, K.C., for appellant. *Perron*, K.C., and *Genest*, for respondent.

Ont.] HESSELTINE v. NELLES. [Dec. 10, 1912.

Appeal—Final judgment—Further directions—Master's report.

On the trial before the Chancellor of Ontario of an action claiming damages for breach of contract, judgment was given for the plaintiffs with a reference to the Master to ascertain the amount of damages, further directions being reserved. This judgment was affirmed by the Court of Appeal. The Master then made his report which, on appeal to the Chief Justice of the common pleas, was varied by reduction of the amount awarded. The Chancellor then pronounced a formal judgment or further directions in favour of the plaintiffs for the damages as reduced. The defendants appealed from the judgments of the Chief Justice and the Chancellor and the two appeals were, by order, heard together but not formally consolidated. Both judgments were affirmed by the Court of Appeal and the defendants sought to appeal from the judgment affirming them and also from the original judgment sustaining the decision at the trial having applied without success to the court below for an extension of time to appeal from the latter judgment; see *Nelles v. Hesseltine*, 27 O.L.R. 97.

Held, BRODEUR, J., dissenting, that the only judgment from which an appeal would lie was that affirming the judgment of the Chancellor on further directions; that the Chancellor could not review the original judgment of the Court of Appeal nor that varying the Master's report, and the Court of Appeal was equally unable to review them on the appeal from the Chancellor's decision; and the Supreme Court being able to give only the judgment that the Court of Appeal should have given, was likewise debarred from reviewing these earlier decisions.

Appeal dismissed with costs

Nesbitt, K.C., and *Matthew Wilson*, K.C., for appellants.
Holman, K.C., for respondents.