

Where a statute under which a Judge acts as persona designata is silent as to appeals from his decision, sec. 4 of ch. 79 applies; and leave granted by the Judge may enable a Divisional Court to entertain an appeal from his decision, though a majority of the Court thought otherwise in *Re Moore and Township of March*, 20 O.L.R. 67. But, in my opinion, ch. 79 has no application to an appeal from a decision made by a Judge acting under the authority conferred upon him by Part IV. of the Municipal Act. If he is a Judge of the Supreme Court, his decision, under sec. 179, is final, and there is no appeal. Yet as Judge of the Supreme Court he is as much persona designata under Part IV. as is a Judge of a County Court. If ch. 79 had any application, a Judge of the Supreme Court could, by granting leave under sec. 4, enable a Divisional Court to entertain an appeal from his decision, which the Municipal Act expressly prohibits.

I therefore think the preliminary objection holds, and that the appeals should be dismissed.

KELLY, J., was of the same opinion, for reasons stated in writing.

Appeals dismissed; the Court being divided.

APRIL 21ST, 1915.

*WOLSELY TOOL AND MOTOR CAR CO. v. JACKSON
POTTS & CO.

Principal and Agent—Customs Broker—Breach of Duty—Depriving Principal of Control over Goods—Negligently Entrusting Sub-agent with Bill of Lading Endorsed in Blank—Misdelivery of Goods—Negligence of Sub-agent and of Carriers—Third Parties—Liability over—Damages—Costs.

Appeals by the defendants and the Great Northern Railway Company, third parties, from the judgment of MEREDITH, C.J. C.P., 33 O.L.R. 96, 7 O.W.N. 617.

The appeals were heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.