

The reasoning in *Regina ex rel. Grant v. Coleman*, 7 A.R. 619, that the Judge does not act as a Court in such proceedings, is equally applicable in the present state of the legislation. . . . The Judge . . . is *persona designata*. When the case first referred to was decided, there was no appeal from an order made by *persona designata*; 56 Vict. ch. 13 was the first general statute—and that (sec. 6) forbade an appeal unless expressly authorised by the statute conferring jurisdiction. It was not till 1900 that a further exception was made and an appeal authorised if leave should be granted by the *persona designata* or a Judge of the Court of Appeal: 63 Vict. ch. 17, sec. 14. In 1909, a Judge of the High Court was substituted for a Judge of the Court of Appeal (9 Edw. VII. ch. 46, sec. 4), and in the Revision of 1914 a Judge of the Supreme Court.

In the present case, leave has been given by the *persona designata*, and I think that we should entertain the appeal and allow it with costs.

Of course the appeal given in sec. 179(1) of the Act is from the ultimate decision of the Judge on the merits: In *re Regina ex rel. Hall v. Gowanlock* (1898), 29 O.R. 435, at p. 449: this appeal is to us under the Judges' Orders Enforcement Act, R.S.O. 1914 ch. 79, sec. 4.

The case of *Re Moore and Township of March* (1909), 20 O.L.R. 67, is in the (former) Divisional Court of the High Court, and is not binding on us here. If anything that I said there indicates that an appeal does not lie here, I wholly recant it.

Except as to the costs, the question as to whether an appeal lies is largely academic. The County Court Judge would, no doubt, govern himself by our expressed opinion and decline to give the relator any relief.

FALCONBRIDGE, C.J.K.B.:—I agree.

LATCHFORD, J.:—. . . Assuming that the order was made by the Judge as *persona designata* by the Municipal Act, his leave to appeal would, upon the contention based on sec. 4 of the Judges' Orders Enforcement Act, R.S.O. 1914 ch. 79, give an appeal to a Divisional Court against any order—interlocutory or otherwise—which he might make; while, under the Municipal Act itself (sec. 179), the appeal authorised is limited to an appeal from a final order only, and is to be made to a single Judge, "whose decision shall be final."