

# The Ontario Weekly Notes

Vol. IV.

TORONTO, OCTOBER 18, 1912.

No. 5

HIGH COURT OF JUSTICE.

RIDDELL, J., IN CHAMBERS.

OCTOBER 7TH, 1912.

\*RE McLEOD v. AMIRO.

*Mandamus—Division Court—Appeal from Police Magistrate's Conviction—Decision upon Sufficiency of Information and Complaint—Criminal Code, sec. 753—Misconstruction by Division Court Judge—Power of High Court to Supervise Decision—Consent—Decision on Merits, not on Preliminary Point.*

Motion by Arthur McLeod for a mandamus to the Judge presiding in a Division Court. The motion was made upon consent.

T. H. Peine, for the applicant.

RIDDELL, J.:—McLeod laid an information against Amiro for operating his automobile on the highway contrary to the statute; the accused was tried before the Police Magistrate at Napane and convicted, being fined \$10 and costs. No objection was taken before the Police Magistrate as to any defect in form or substance in the information.

An appeal was taken to the Division Court of the division, under sec. 749(a) of the Criminal Code. The Division Court Judge (the Judge of the County Court of the County of Frontenac) sat to hear the case. Counsel for the appellant (Amiro) took objection to the information and complaint as insufficient in form and in substance. No evidence was taken; although counsel for the informant requested that the merits on the facts should be gone into, the Judge refused; and the appeal was

\*To be reported in the Ontario Law Reports.

8—IV. O.W.N.