whether there is a defence upon the merits, and also whether the case is one in which the order ought to be made, the conclusion was that this was not a proper case.

There was no warrant for the order in any respect or to any extent; and so the appeal should be allowed with costs of the motion and appeals to be paid to the plaintiff by the defendants forthwith.

RIDDELL and LENNOX, JJ., agreed in the result, each giving written reasons.

ROSE, J., dissented, for reasons stated in writing.

Appeal allowed; ROSE, J., *dissenting.*

SECOND DIVISIONAL COURT. APRIL 27TH, 1917.

*McCONNELL v. McGEE.

Division Courts — Jurisdiction — Division Courts Act, sec. 62(a)— "Personal Action"—Trespass to Land—Title to Land not in Question—Costs.

Motion by the plaintiff to extend the time for appealing from a judgment of the County Court of the County of Huron (adjourned before the Court by a Judge in Chambers).

The motion and also the merits of the proposed appeal were heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.

L. E. Dancey, for the plaintiff.

W. Proudfoot, K.C., for the defendant.

MEREDITH, C.J.C.P., in a written judgment, said that the proposed appeal was against the ruling of the County Court Judge that the plaintiff's cause of action was one within the jurisdiction of a Division Court, and the Judge's order that the costs of the action should be taxed accordingly (the damages being assessed at $60): see Rule 649 and the County Courts Act, R.S.O. 1914 ch. 59, sec. 40 (1) (*d*). There was no thought of appealing until a recent decision, that Division Courts have not jurisdiction in any case of trespass to land, was noted: Re Harmston v. Woods (1917), ante 23; and the time for appealing without leave had expired.