

judge in chambers. *Per* Duff, J. Although not strictly the proper procedure, the objection to such an application may be waived.

*Per* Duff, J. Section 106 of the Winding-Up Act imposes a further condition of the right of appeal over and above those imposed by secs. 69 and 71 of the Supreme Court Act; an applicant having obtained leave after the expiration of the time limited for appealing, is still obliged to satisfy a judge of the Court appealed from that special circumstances justify an extension of time, and it is the duty of that judge to exercise proper discretion in making such an order on his own responsibility. *Attorney-General v. Emerson*, 24 Q.B.D. 53, and *Banner v. Johnston* (L.R. 5, H.L. 157), referred to.

*Per* Brodeur, J. In the case of appeal from judgments rendered under the Winding-Up Act the jurisdiction of the Supreme Court of Canada is determined by section 106 of the Winding-Up Act, and is dependent solely upon the amount involved in the judgment appealed from and not upon the amount demanded in the proceedings on which that judgment was rendered.

Motion dismissed with costs.

G. G. Stuart, K.C., for motion; R. C. Smith, K.C., *contra*.

Sask.]

[Feb. 1.

HILLMAN v. IMPERIAL ELEVATOR AND LUMBER CO.

*Appeal—Jurisdiction—Matter originating in inferior Court—Transfer to Superior Court—Extension of time for appealing—Special leave—Supreme Court Act, ss. 37, c. 71.*

The action was commenced in the District Court to enforce a mechanic's lien and proceedings in that Court were discontinued, by consent of the parties, and were transferred and subsequently carried on in the Supreme Court of Saskatchewan as if a new writ had been issued, the statement of claim, pleadings and proceedings being all filed and taken in the latter Court. An order in the Supreme Court of Saskatchewan was made extending the time for appealing beyond the sixty days limited for bringing the appeal by the Supreme Court Act, under sec. 71. On an application, under sec. 48e of the Supreme Court Act, for special leave to appeal;

*Held*, that, although the proceedings, after the issue of the writ, had all been carried on in the Court of superior jurisdiction, yet, as the cause originated in a Court of inferior jurisdiction, no appeal would lie to the Supreme Court of Canada. *Tucker v. Young*, 30 S.C.R. 185 followed.