

Reports and Notes of Cases.

Dominion of Canada.

SUPREME COURT.

Que.] RE GREAT NORTHERN CONSTRUCTION CO.; [March 3.
ROSS v. ROSS, BARRY AND McRAE.

Appeal—Jurisdiction—Winding-up proceedings—Time for appealing—Amount in controversy—Construction of statute—Supreme Court Act, R.S.C., 1906, c. 139, ss. 46, 69, 71—Winding-Up Act, R.S.C., 1906, c. 144, ss. 104, 106—Practice—Affirming jurisdiction—Motion in court—Discretionary order by judge.

Held, per Fitzpatrick, C.J., and Idington and Brodeur, JJ. (Duff and Anglin, JJ., contra). The appeal to the Supreme Court of Canada given by sec. 106 of the Winding-Up Act, R.S.C., 1906, c. 144, must be brought within sixty days of the date of the judgment appealed from, as provided by sec. 69 of the Supreme Court Act, R.S.C., 1906, 139. After the expiration of the sixty days so limited neither the Supreme Court of Canada nor a judge thereof can grant leave to appeal. *Goodison Thresher Co. v. Township of McNab* (42 Can. S.C.R. 694), and *Hillman v. Imperial Elevator and Lumber Co.* (52 Can. S.C.R.), followed; *Grand Trunk Railway Co. v. Department of Agriculture of Ontario* (42 Can. S.C.R. 557), distinguished.

Per Duff, J., dissenting. Under section 106 of the Winding-Up Act, the application for leave to appeal may be made after the expiration of sixty days from the date of the judgment from which the appeal is sought and, whether it be made before or after the expiration of the sixty days lapse of time, should be considered by the judge applied to and acted on by him, in the exercise of discretion, according to the circumstances of the case.

Per Anglin, J., dissenting. On such an application for leave to appeal, the provisions of section 71 of the Supreme Court Act apply and an extension of the time for appealing may be obtained thereunder.

Per Idington, J. There is no authority under which an application for an order affirming the jurisdiction of the Supreme Court of Canada to entertain an appeal can be made to the Court; the proper and only course is by application to the registrar acting as