

before MEREDITH, C.J., when damages were assessed against defendants at \$7,500, and to extend the time for appealing.

J. Dickson, Hamilton, for defendants.

W. A. H. Duff, Hamilton, for plaintiffs.

GARROW, J.A.—Without regard to the merits—the question being simply one of damages—I think leave should be granted. Judgment was delivered only on 11th October last, and within 30 days all the necessary steps to perfect an appeal to this Court were taken, if such an appeal had lain without consent and without leave, as was apparently the mistaken idea of defendants' solicitors. The amount is large. There was an undoubted right to go to the Divisional Court, or to come to this Court on consent or by leave. Defendants have satisfied me of their bona fide desire and intention to prosecute an appeal, and in the circumstances they should be relieved from the consequences of the mistake into which the solicitor fell in not observing that consent or leave was necessary. But they should of course pay the costs of this application and of the other proceedings taken by plaintiffs in consequence of the mistake, in any event of the action. Leave to appeal granted and time extended for 60 days from 11th October.

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