

cumstance that should weigh with us has been presented. The application must, therefore, be refused.

OSLER, J.A., gave reasons in writing for the same conclusion.

GARROW and MACLAREN, J.J.A., also concurred.

MEREDITH, J.A., dissenting, was of opinion, for reasons stated in writing, that leave should be granted and the time be extended.

FEBRUARY 11TH, 1909.

C.A.

IRVING v. GRIMSBY PARK CO.

Appeal to Supreme Court of Canada — Leave to Appeal — Supreme Court Act, R. S. C. 1906 ch. 139, sec. 48 (e)—Extension of Time for Appealing under sec. 71—Application after Expiry of 60 Days — Jurisdiction of Court of Appeal—Amount Involved not Exceeding \$1,000—Absence of Special Circumstances—Refusal of Leave.

Motion by defendants for leave to appeal to the Supreme Court of Canada from the judgment of the Court of Appeal, 11 O. W. R. 748, in favour of plaintiff upon an appeal directly from the judgment at the trial, and to extend the time for bringing the appeal, the defendants having launched an appeal without leave, and their appeal having been quashed by the Supreme Court of Canada.

The present motion was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.

G. F. Shepley, K.C., for defendants.

G. H. Kilmer, K.C., for plaintiff.

Moss, C.J.O.:—I have in *Milligan v. Toronto R. W. Co.*, ante, dealt with the objections as to the want of power in the Court to entertain the motion.

After consideration, I am of opinion that the application should not be granted.