

# The Ontario Weekly Notes

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## APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

FEBRUARY 7TH, 1917.

\*JONES v. TOWNSHIP OF TUCKERSMITH.

*Appeal—Extension of Time for Appealing to Supreme Court of Canada—Special Circumstances—Appeal in Concurrent Proceeding—Substantial Identity of Proceedings—Leave to Appeal—Costs.*

Motion by the plaintiffs to extend the time for appealing to the Supreme Court of Canada from the judgment of the Appellate Division, delivered on the 26th April, 1915, reported 33 O.L.R. 634, and noted 8 O.W.N. 344.

The motion was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

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

R. S. Robertson, for the defendants.

MAGEE, J.A., in a written judgment, stated the facts and referred to the position of the case. Besides this action, there was a summary motion by the plaintiffs to quash a by-law of the defendant township corporation, which by-law was also in question in the action. The judgment of the Appellate Division dealt with both motion and action, and the result of the judgment was that sec. 2 of the by-law was quashed, the conveyance to the defendant Kruse of the land in question was set aside and the registration of it vacated; and the action and motion, so far as sec. 1 of the by-law was concerned, were dismissed. The plaintiffs appealed to the Supreme Court of Canada, but only from the order made upon the motion to quash. When their appeal came on for hearing, difficulty was experienced, and the Supreme Court

\* This case and all others so marked to be reported in the Ontario Law Reports.