

been so strict as the Court of Appeal in England under their corresponding Rule. For illustrations of their refusal to extend the time on account of a mistake by counsel or solicitors, see *International Financial Society v. City of Moscow Gas Co.*, 7 Ch. D. 241; *In re Helsby*, [1894] 1 Q.B. 742; *In re Coles and Ravenshear*, [1907] 1 K.B. 1. It is to be observed that in these cases there was no such delay as in this case; the application in each case was made shortly after the time had expired; there was no decision, as here, that it was not "advisable" to appeal at the time. There was there no deliberate choice of a particular course and a determination to take chances, as here, nor any postponement for years of what is required to be done by the statute within a limited number of days.

No precedent was cited to us where anything approaching the facts and circumstances of the present case had been held to be such "special circumstances" as would justify such an order as now asked for.

I am of opinion that the application of the appellants, both by way of appeal and as a substantive motion, should be dismissed, and that the company should be limited to the appeal which they now have pending in the Supreme Court, and to such relief as they may be able to obtain from their appeal from the final judgment of this Court and such interlocutory judgments as may properly be brought up on such appeal.

MOSS, C.J.O., GARROW, and MAGEE, J.J.A., concurred.

MEREDITH, J.A., dissented, for reasons stated in writing.

*Application dismissed.*

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JUNE 18TH, 1912.

McDOUGALL v. OCCIDENTAL SYNDICATE LIMITED.

*Foreign Judgment—Action on—Defence — Fraud — Failure to Prove.*

Appeal by the defendants from the judgment of FALCONBRIDGE, C.J.K.B., noted, sub nom. *Johnston v. Occidental Syndicate Limited*, ante 60, in favour of the plaintiff in an action upon a judgment recovered in the Yukon Territorial Court.