

The
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TORONTO, JUNE 26, 1912.

No. 41.

COURT OF APPEAL.

JUNE 18TH, 1912.

*NELLES v. HESSELTINE.

Appeal to Supreme Court of Canada—Order “Allowing Appeal” from Judgment of Court of Appeal—Supreme Court Act, secs. 38 (c), 48 (e), 71—Jurisdiction of Court of Appeal—Judgment, Final or Interlocutory—Appeal not Brought within Prescribed Time—Refusal to Enlarge Time.

Application on behalf of the defendants the Windsor Essex and Lake Shore Rapid Railway Company for an order allowing, in terms of sec. 71 of the Supreme Court Act, an appeal to the Supreme Court from a judgment pronounced by the Court of Appeal in this action, on the 21st April, 1908 (11 O.W.R. 1062).

The same application was first made to Moss, C.J.O., in Chambers, and, was refused (ante 862); and the present application was both by way of appeal from the order in Chambers, and by way of a substantive motion.

The application was heard by Moss, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

M. Wilson, K.C., and A. H. F. Lefroy, K.C., for the applicants.

C. J. Holman, K.C., for the plaintiffs.

MACLAREN, J.A.:—The motion made before the Chief Justice was based exclusively upon sec. 71 of the Supreme Court Act;

*To be reported in the Ontario Law Reports.