

THE HOSPITAL FOR SICK CHILDREN, THE
TRUSTEES OF THE TORONTO GENERAL HOS-
PITAL AND THE PUBLIC TRUSTEE ..APPLICANTS;

1962
*Jun. 4
Jun. 11

AND

MARY ELIZABETH O'BRIEN, LINDA HAMBLY,
DONALD BLACKWELL, CANADA PERMANENT
TORONTO GENERAL TRUST COMPANY AND
THE OFFICIAL GUARDIANRESPONDENTS.

MOTION FOR LEAVE TO APPEAL

Appeals—Jurisdiction—Practice and procedure—Motion for leave to appeal—Application for extension of time to appeal to Court of Appeal—The Supreme Court Act, R.S.C. 1952, c. 259, s. 41.

The applicants were seeking, pursuant to s. 41 of the *Supreme Court Act*, to appeal from a judgment of the Court of Appeal for Ontario which had refused an application, made on April 11, 1962, to extend the time for appealing to that Court from a judgment of the High Court pronounced on May 12, 1959.

Held: The application should be dismissed.

Assuming, without deciding, that this Court had jurisdiction to grant the leave asked for, this was not a case in which leave ought to be granted.

MOTION for leave to appeal from a judgment of the Court of Appeal for Ontario refusing to extend time to appeal to that Court. Motion dismissed.

C. F. H. Carson, Q.C., for the applicants.

J. D. Arnup, Q.C., for the respondents.

F. T. Watson, Q.C., for the Official Guardian.

M. Johnston, for the Public Trustee.

The judgment of the Court was delivered by

CARTWRIGHT J.:—This is a motion brought pursuant to s. 41 of the *Supreme Court Act* for leave to appeal to this Court from the orders of the Court of Appeal for Ontario, dated May 7, 1962, dismissing the applications of the applicants for orders extending the time for appealing to the Court of Appeal for Ontario from a judgment of the Honourable the Chief Justice of the High Court pronounced on May 12, 1959.

We are all of opinion that leave to appeal should be refused.

*PRESENT: Cartwright, Martland and Judson JJ.

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v.
O'BRIEN
et al.

Cartwright J.

It is not customary for the Court to give extended reasons for allowing or refusing leave to appeal except where questions of our jurisdiction arise. In this case it was submitted that we have no jurisdiction to grant leave to appeal from an order of the Court of Appeal granting or refusing an extension of time for appealing to that Court. The question was fully argued, reference being made to the decision of the House of Lords in *Lane v. Esdaile*¹ and to other authorities.

We have not found it necessary to deal with this question. For the purposes of this motion we have assumed, without deciding, that we have jurisdiction to grant the leave asked for and on that assumption we are all of opinion that this is not a case in which leave ought to be granted.

The application is dismissed with costs.

Application dismissed.
