

sums from time to time as the defendant should deem proper, having regard to the progress of the work, its value, and the cost of completing the houses; that the plaintiff made default in building the houses, not having even commenced their erection; and that, therefore, no further money ever became payable.

The County Court Judge found that the mortgage was intended to be a building mortgage, though it was absolute in form, and that the mortgage-moneys should be advanced as the building progressed, to the extent of \$2,000.

The learned Chief Justice said that this finding negatived the plaintiff's contention that the payment of the money was to precede the work of construction; and he construed it as meaning that the actual work of construction must have been commenced and some progress made before any money became payable by the defendant. The work not having been commenced, no money became payable.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

OCTOBER 15TH, 1918.

*MORRAN v. RAILWAY PASSENGERS ASSURANCE CO.
OF LONDON ENGLAND.

Insurance (Accident)—Total Disability Claim—Cause of Injury—Assault—"External Force"—Voluntary or Unnecessary Exposure—Change of Occupation—Immateriality in Regard to Risk—Question of Fact—Finding of Trial Judge—Insurance Act, sec. 156(6)—Renewal of Policy.

Appeal by the defendants from the judgment of LENNOX, J., 13 O.W.N. 358.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, SUTHERLAND, and KELLY, JJ.

Wallace Nesbitt, K.C., for the appellants.

T. N. Phelan, for the plaintiff, respondent.

SUTHERLAND, J., in a written judgment, said, after setting out the facts, that the trial Judge had come to the definite conclusion, upon conflicting evidence, that the disability from which the plaintiff suffered began on the 15th October, 1915, and that pre-

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