"At the Court so holden the Judge shall hear the appeal, and may adjourn the hearing from time to time, but shall deliver judgment not later than thirty days after the hearing:" 10 Edw. VII. ch. 90, sec. 48. This section first appears in 57 Vict. ch. 56, sec. 45. . . .

[Reference to 55 Vict. ch. 48, sec. 68(7); In re Ronald and Village of Brussels, 9 P.R. 232, 237, 238; the Ditches and Watercourses Act, 57 Vict. ch. 55, sec. 22, sub-sec. 6; Re McFarlane v. Miller, supra.]

The Judge is now directed thus: he *shall* hear, he *may* adjourn, but *shall* deliver judgment not later than thirty days from the hearing. The effect of the words "shall" and "may" is here emphasised, and it is rather a misfortune than otherwise to see a disposition to read them as interchangeable and convertible. The force of the Interpretation Act was upheld by Armour, C.J.O., in In re Township of Nottawasaga and County of Simcoe, 4 O.L.R. at p. 11, and it appears to me to be a wholesome rule to bring about some certainty in the present flux of judicial opinion. The trend of legislation in this and kindred provisions for drainage suggests to my mind that the time-limits prescribed are meant to be observed, and that summary and prompt and well-defined periods are given within which to bring to a practical close these disputes of merely local importance. . .

[Reference to Bowman v. Blyth, 7 E. & B. 48.]

The burden is on the party who asserts that "shall" is to be read as permissive, and not as peremptory; and the text of this section and its history fortify that position. No reasons appear for any relaxation of the time-limit, on the facts of this case.

The method of decision . . . in In re Township of Nottawasaga and County of Simcoe has been followed in the Supreme Court of Canada in In re Trecothic Marsh, 37 S.C.R. 79.

Where the statute plainly declares that proceedings shall be taken or acts done within a time definitely fixed, it is not well to multiply exceptions so as to hold that the words do not mean what they express, but are movable to suit the exigencies of particular cases.

I would follow In re Township of Nottawasaga and County of Simcoe and hold that the Judge was functus officio at the end of the thirty days fixed by statute.

Appeal allowed and prohibition granted. No costs.