

Province of British Columbia.

SUPREME COURT.

McColl, C.J.]

[Nov. 2, 1900.]

THE QUEEN v. MUNICIPAL COUNCIL OF THE DISTRICT OF MISSION.

Municipal law—Limitation of action against municipality—Whether action includes mandamus proceedings.

Mandamus to compel the defendant to appoint an arbitrator for the purpose of determining the compensation to be awarded Robert Law for land taken for road purposes. The objection was taken that the action was barred by s. 244 of the Municipal Clauses Act, as the land was taken some five or six years previous to the issue of the writ of mandamus.

Held, by McCOLL, C.J., dismissing the motion, that the limitation of one year prescribed by s. 244 of the Municipal Clauses Act for commencing actions against a municipality applies to mandamus proceedings to compel a municipality to appoint an arbitrator to determine the amount of compensation for land taken for road purposes.

J. R. Grant, for the motion. *Godfrey*, contra.

COUNTY COURT OF KOOTENAY.

Forin, J., in Chambers.]

[June 7.]

LINDBURG v. MCPHERSON.

Garnishee before judgment, for damages, together with liquidated demand—Affidavit verifying debt.

This was an application by defendant to set aside a garnishee summons (and service) issued before judgment, and for payment out of Court of moneys paid in by the garnishee. Sec. 102 of County Court Act (R.S.B.C. 1897, c. 52) provides that "a plaintiff at the time of issuing a summons for a debt or liquidated demand, or at any time thereafter previous to judgment upon filing . . . and affidavit verifying the debt . . . may obtain a summons" (i.e., garnishee summons), etc. The summons was issued, claiming \$2.50 for hire of horse and sleigh, together with \$60 damages for the destruction of the sleigh through defendant's negligence. The affidavit verifying the debt ran: "My claim against the defendant is for the sum of \$2.50 hire of rig hired by the defendant from me on the 14th day of February last, and for the "sum of \$60 damages for the destruction of the said rig or vehicle." Plaintiff's council contended that