

3. Statutory Writ simplifying the procedure under I. Rules 881 et seq. This, however, does not displace No. I., but merely supplements it.

The discretionary writ being prerogative in its nature cannot be given against the Crown or the High Officers of the Crown. For principles see *Rich v. Melanethon Board of Health*, 26 O.L.R. 48.

Lies to compel delivery of papers by a public officer to his Successor, *Reg. ex rel. Pacaud v. Dubois*, 3 M.R. 15.

Will not lie where any other adequate remedy. *Holmes v. Brown*, 18 M. R. 48 (mandamus to compel Mayor to sign cheque for valid legal claim refused as action lay against municipality). *Noble v. Municipality of Turtle Mountain*, 15 M.R. 514 (Indictment). *Frankel v. City of Winnipeg*, 23 M.R. 296, 22 W.L.R. 597, or unless the applicant has a legal right to the performance of some duty of a public and not merely a private character, *ibid.*

Will not lie to compel the exercise of a discretionary duty. *Re Club Laurier*, 23 W.L.R. 380.

Conveyance of children to school under Public Schools Act.—Mandamus will lie to compel, *Rex ex rel. Wills v. Green*, 23 W. L. R. 264.

There is no jurisdiction in the Court to declare void an election return which is not on its face a nullity, *Davis v. Barlow*, 15 W.L.R. 49; the question must be dealt with by the Forum created by the Controverted Elections Act, *ibid.*

A mandamus will not lie to compel the removal of encroaching fences and buildings, *Thordarson v. Akin*, 15 W.L.R. 115; Rule 601.

Semble, a mandamus will lie against a Railway Company to compel arbitration in the case of taking possession of land required for a right of way and in the absence of a contract. *Carr v. C.N.R.*, 6 W.L.R. 723. A mandamus to compel a Court Reporter to furnish a complete copy of evidence taken on a Criminal trial, was refused, the Reporter claiming to have furnished a complete copy and there being no evidence to the contrary, *Rex v. Campbell*, 2 W.L.R. 223, (Y.T.).

Mandamus granted to Sheriff who had an execution against a municipality to compel the Secretary-Treasurer to produce Assessment Rolls to strike rate, *London, etc., Loan Co. v. Morris*, 9 M.R. 377.