

Boyd C., Ferguson J., Robertson J.]

Dec. 12, 1900.

SHERA v. OCEAN ACCIDENT AND GUARANTEE COMPANY

*Insurance—Accident—Cause of—"Immediate"—Cause or causation—Time.*

In a clause contained in an accident insurance policy in these words "Or if such accidental injuries shall not cause death, but shall immediately, continuously and wholly disable and prevent the assured from pursuing his usual business or occupation or attending to any business affairs whatsoever, the Corporation will pay" etc.

*Held* that the word "immediately" is used in reference to cause or causation and not as to time.

Judgment of the District Court of the District of Thunder Bay affirmed.

W. Nesbitt, Q.C., for the appeal. J. H. Moss, contra.

Boyd, C.]

[Dec. 13, 1900.

TORONTO PUBLIC LIBRARY BOARD v. CITY OF TORONTO.

*Mandamus—Municipal corporation—Statutory duty—Prerogative writ—Summary application—Action.*

Motion, in an action, for a mandamus to compel the defendants to levy a special rate for library purposes for the year 1900, under the provisions of the Public Libraries Act, R.S.O. c. 232.

*Held*, that the rule in England is, that when a public body is required to perform a statutory duty at the instance of one entitled to call for such performance, the proper method is to move summarily for the prerogative writ of mandamus, according to the prescribed procedure in the Crown office: *Glossop v. Heston and Isleworth Local Board*, 12 Ch. D. 102, 122; *Smith v. Chorley District Council* (1897) 1 Q.B. 532, 538; *Re Paris Skating Rink Co.*, 6 Ch. D. 731. But in this province all the divisions have co-ordinate jurisdiction; *Re Board of Education of Napanee and Town of Napanee*, 29 Gr. 395; and the practice in cases of the prerogative writ is assimilated to that in ordinary applications of a summary nature. See Rules 1084, 1090, 1091, 1092.

In this case the affidavits should be re-sworn and intitled as in an application (not in an action) for the prerogative writ.

*Widnes Alkali Co. v. Sheffield and Midland R. W. Co.'s Committee*, 37 L. T. 131, distinguished.

Du Vernet, for plaintiffs. Fullerton, Q.C., for defendants.

Boyd, C.] IN RE MARTIN & TOWNSHIP OF MOULTON. [Dec. 17, 1900.

*Municipal corporations—By-law for stopping road allowance—Notice of intention to pass—Sufficiency of—R.S.O. c. 223, s. 632.*

A municipality included in notices posted up and published by them of intention to pass a by-law closing a road allowance, the following intima-