

B.C.]

[Nov. 6, 1911.]

CITY OF VANCOUVER v. McFHELAN.

*Municipal corporation—Obligation to repair highway—Statutory duty—Liability for breach.*

By the Vancouver Incorporation Act (B.C. Stats. 1900, c. 54, s. 219) the duty is imposed on the city corporation of keeping its highways in repair.

*Held*, that a person injured in consequence of omission to perform such duty has a right of action against the corporation, though none is expressly given by statute. Judgment appealed against (15 B.C. Rep. 367) affirmed.

W. A. McDonald, K.C., and J. Travers Lewis, K.C., for appellants. Lafleur, K.C., for respondent.

Ont.]

[Nov. 6, 1911.]

MACKENZIE v. MONARCH LIFE ASSURANCE CO.

*Company—Issue of shares—Officials authorized to sign certificate—Bonâ fide holder—Estoppel.*

M. brought action against a company and O., its managing director, for an injunction to restrain the former from using matter in the copyright of which he was part owner with O. The action was settled by O. undertaking to deliver to M. twenty-five shares of the company's stock and certificates representing that number of shares signed by the proper persons and bearing the seal of the company were given to M., who brought action to be registered as owner thereof. The defence of the company was that they did not issue the certificates, nor consent to the issue, and that M. never paid them the value. On the trial it was proved that O. never had shares of his own to transfer to M. and there was some evidence that no resolution of the directors was passed authorizing the issue.

*Held*, reversing the judgment of the Court of Appeal (23 O.L.R. 342), DAVIES and IDINGTON, JJ., dissenting, that M. was entitled to be registered.

*Held*, per FITZPATRICK, C.J., and DUFF, J.—The company having authorized certain of its officers to sign such certificates could not dispute the validity of certificates signed by those officers.

Per ANGLIN, J.—The certificates were *prima facie* evidence of title to the shares which the company had failed to displace.