

Tanaka v. Russell

[1902] B.C.J. No. 71

9 B.C.R. 336

British Columbia Supreme Court
Vancouver, British Columbia

Martin J.

Heard: August 1, 1902.
Judgment: August 6, 1902.

1 **MARTIN J.**-- It is desirable that I should confer with my brother DRAKE before delivering judgment on this matter. In any event the present summons is wrong in asking that the case be set down for the "Assizes." As applied to civil actions that is a confusing misnomer so far as Victoria and Vancouver are concerned; what is meant is the October Civil Sittings as directed by said section 5.

2 **MARTIN J.**-- In this matter I have conferred with my brother DRAKE and am of the opinion that in view of the provisions of section 5 of the Supreme Court Act Amendment Act, 1901, there must be a special direction (under section 69 of the Jurors Act) to the Sheriff to summon a jury in all cases which are to be so tried in Victoria and Vancouver, though this is not necessary once an order for a jury has been obtained where cases are to be tried at the Sittings of Assize and nisi prius under section 28.

3 The intention of said section 5 is that civil cases are not to be tried at the Assizes in Victoria and Vancouver, but at the regular Sittings of the Court as fixed by the statute, six times a year.

4 An order will, consequently, issue directing the Sheriff to summon a jury for the date already fixed, i.e., the first day of the Vancouver October Sittings.

