cution of a supplementary agreement between the municipal corporation and a railway company "duly ratified by council; it also determined the classes of persons and property entitled to compensation in consequence of being injuriously affected by the diversion and closing of the streets. The statute (3 & 4 Edw. VII. c. 64, s. 708, s.-s. *c* (1)), conferring these powers, gave persons dissatisfied with the determination the right to appeal to a judge "within ten days after the passage of the by-law." Another by-law was subsequently enacted by which the first by-law was "ratified and confirmed and declared to be now in force." The defendants, who had been excluded from the class of persons to receive compensation, appealed to a judge, under the section of the statute above referred to, within ten days after the enactment of the second by-law.

Held, that the terms "within ten days after the passage of the by-law" in the statute had reference to the date when the by-law affecting the streets and determining the classes entitled to compensation became effective; that the first by-law did not come into force and effect in such a manner as to injuriously affect the defendants until it was ratified and confirmed by the subsequent by-law, and consequently, the defendants' appeal came within the time limited by the statute.

Judgment appealed from (20 Man. R. 669) affirmed.

Wallace Nesbitt, K.C., *O. H. Clark*, K.C., and *Christopher C. Robinson*, for appellants. *Aikins*, K.C., and *C. P. Wilson*, K.C., for respondents.

B.C.] [Dec. 6, 1911.

BRITISH COLUMBIA ELECTRIC RY. CO. *v.* WILKINSON.

Negligence—Carriers—Operation of railway—Defective system—Gratuitous passenger—Free pass—Limitation of liability—Employer and employee—Fellow-servant—Evidence—Onus of proof.

The plaintiff's husband was an employee engaged as a mechanic in the company's workshops and was travelling thither to his work on one of the company's passenger cars, as a passenger, without payment of fare. A freight car became detached from a train, some distance ahead of the passenger car and proceeding in the same direction; it ran backwards down a grade, collided with the passenger car and the plaintiff's husband was killed. The manner in which the freight car became detached