

the Statute of Limitations. If defendant takes such reference, this action will be referred to the Master in Ordinary to inquire and report what profits, if any, were made by defendant out of the publication of "Elite," and costs of the action and reference will be reserved to this Court until the Master shall have made his report.

In any event there will be no costs of plaintiffs' appeal to either party.

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MARCH 20TH, 1905.

DIVISIONAL COURT.

RE INGLIS AND CITY OF TORONTO.

*Municipal Corporations—By-law—Closing Part of Highway—Private Interests—Bonus Clauses of Municipal Act—Reducing Width of Street—Rights of Owners Purchasing according to Plan.*

Appeal by the John Inglis Company, Limited, from order of MEREDITH, J., dismissing appellants' motion to quash by-law No. 4462 of the city of Toronto, a by-law "to provide for the closing of part of Strachan avenue and conveying the same to the Massey-Harris Company."

See the report of a former motion, 4 O. W. R. 253.

The appeal was heard by FALCONBRIDGE, C.J., STREET, J., ANGLIN, J.

H. S. Osler, K.C., and Britton Osler, for the appellants.

G. H. Watson, K.C., and F. R. MacKelcan, for the respondents.

STREET, J.:—By-law No. 4462 . . . recites that the Massey-Harris Co., Limited, have applied to have the portion of Strachan avenue described in the by-law closed and conveyed to them, and that the committee on works have reported in favour of the application, and that their report has been adopted by the council; and proceeds to enact that the easterly 14 feet of Strachan avenue lying between King street and Wellington street shall be stopped up and closed, and that it be conveyed to the Massey-Harris Co.

The evidence . . . shews that the portion of the street to be closed is to be conveyed to the Massey-Harris Co. by way of bonus for the promotion of the manufacturing industry carried on by them in Toronto, and to promote an intended enlargement of their works in Toronto. No contract by the company to add to their works or to increase the manufacture of their implements or to employ any additional number of