

ten days after its passage, is proceeding to have his damages assessed by arbitration, the court will restrain such proceedings by injunction, because such an order is wholly without jurisdiction and therefore absolutely null and void.

A municipal by-law is not invalid merely because it is only to take effect in the future upon the happening of some contingent event.

Dillon on Municipal Corporations, par. 309; *Bradley v. Perkins*, 33 Sou. R. 351, and 28 Cyc. 392 et seq., followed.

*Clark*, K.C., for plaintiff. *Fullerton*, for defendant.

Robson, J.]

RE FEDORENKO, No. 2.

[Dec. 17, 1910.

*Extradition—Requisition from foreign government—Extradition treaty with Russia, articles VIII. and IX.*

When, under the terms of an extradition treaty with a foreign government, as in the case of the treaty with Russia printed in the *Canada Gazette*, for 1887 at page 1918, Articles VIII. and IX., a requisition from that government for the surrender of a fugitive is provided for as preliminary to any proceedings for the arrest of the fugitive, any such proceedings taken without such requisition having been made are entirely unauthorized, and the fugitive, even after he has been committed for extradition by a judge of this court, should be discharged upon habeas corpus.

Sections 3 and 10 of our Extradition Act, R.S.C. 1906, c. 155, distinctly provide that nothing in the Act which is inconsistent with any of the terms of an extradition treaty shall have effect to contravene the treaty.

*Re Lazier*, 3 Can. Cr. Cas. 167, 26 A.R. 260, distinguished on the ground that there was no corresponding provision in the extradition treaty with the United States.

*Howell* and *A. V. Hudson*, for the Empire of Russia. *Hagel*, K.C., and *Finklestein*, for prisoner.

Mathers, C.J.]

ARMSTRONG v. TYNDALL QUARRY CO.

[Dec. 30, 1910.

*Master and servant—Wrongful dismissal—Measure of damages—Corporation—Seal—Liability of company upon contract not under its seal—Presumption of yearly hiring.*

*Held*, 1. A company incorporated under the Manitoba Joint