

Full Court.] STANGER v. MONDOR. [Dec. 20, 1910.

Registry Act—Real Property Act—Filing deed after application for certificate of title—Priority.

Appeal from judgment of Robson, J., noted vol. 46, p. 745, dismissed with costs.

KING'S BENCH.

Mather, C.J.] CITY OF WINNIPEG v. BROCK. [Dec. 19, 1910.

Municipality—Meaning of "passage of the by-law"—Jurisdiction of judge as persona designata—Winnipeg charter—Injunction—By-law taking effect on the happening of some contingent event.

Where a statute provides that a municipality may pass a by-law for diverting or closing up roads and streets and conveying the same or any part thereof to a railway company and for determining what persons or classes of persons are injuriously affected by the closing of such streets, and enacts that no other persons or classes of persons shall be entitled to any compensation for damages thereby caused to them, unless they appeal to a judge of the Court of King's Bench "within ten days after the passage of the by-law," and that such judge upon such appeal may order that an appellant shall be entitled to compensation, the judge to whom any such application is made is only a persona designata and has no jurisdiction to entertain it or make any order if the application is not made within the time limited, notwithstanding the statute goes on to say that the decision of such judge shall be final and conclusive and shall not be appealed from or moved against by any party. The expression "passage of the by-law" means the final assent thereto by the council and the signature and sealing of the same, and the day when that takes place is the date of the passage of the by-law, although it contains a provision that it shall not take effect until the happening of some named contingency.

Ex parte Rashleigh, 2 Ch. D. 9 and *Hinding v. Cardiff*, 2 O.R. 329, followed.

If a landowner, relying on an order of a judge made upon his application by way of appeal under such a by-law more than