

south-east quarter 13-20-29 West for a public road and took a conveyance thereof, and in 1899 the municipality passed a by-law establishing such strip as a public road and highway and dedicating it for public use as such. The council also spent public money in grading and improving the road and it was used as a public highway thereafter. The by-law was not registered, as required by s. 699 of R.S.M. 1902, c. 116, nor was the conveyance to the municipality registered until 1906. In 1903 the plaintiff bought the quarter section from Boulton without any notice of the defendant's deed and without actual notice of the existence of the road. The conveyance to him did not except the road and he registered it in 1904. This action was brought to have the defendant's deed removed from the registry as a cloud upon the plaintiff's title.

Held, that the deed from Boulton vested the title in defendants, and as soon as they dedicated the road to the public it became vested in the Crown by virtue of s. 622 of the Municipal Act, and that, as the provisions of R.S.M. 1902, c. 150, s. 68, do not apply to the Crown, the plaintiff obtained no title to the road as against the defendants.

Fullerton, for plaintiff. *Hudson*, for defendant.

Mathers, J.]

[April 15.

EMPEROR OF RUSSIA v. PROSKOURIAKOFF.

*Jurisdiction—Service of statement of claim out of jurisdiction
—Substitutional service.*

See note of former decision in this action at page 359 for the circumstances and facts.

Application to set aside an order of the referee allowing substitutional service of the statement of claim within the jurisdiction and the service made thereunder. The order objected to had been made partly on the strength of an affidavit of one of the solicitors for the plaintiff relating a conversation which he had with the defendants' solicitor in which it was alleged that the latter admitted the defendants were in Manitoba but refused to give their address. It did not appear that the defendants' solicitor knew at the time that anything he might say would be put in an affidavit and used against his clients.

Held, that it did not appear that the alleged admission had been obtained in a way that would justify its use in an affidavit and that, as there was no other evidence to shew that the de-