

for public travel, no invitation or inducement being held out by the defendants to the public to travel upon it, and on which he, owing to irregularities on its surface, fell and was injured. The appellant contended that defendants were liable for the injuries sustained by him. Appeal dismissed with costs. Laidlaw, Q.C., and J. Bicknell, for appellant. Fullerton, Q.C., and W. C. Chisholm, for defendants.

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WASHINGTON v. GRAND TRUNK RAILWAY COMPANY.

*Damages—Negligence—Packing frogs and wing-rails during winter months—Order of Railway Committee of Privy Council—Sec. 262 of Railway Act, 1888.*

Judgment on appeal by defendants from judgment of Street, J., upon the findings of the jury, awarding the plaintiff \$2,500 damages for the loss of his right arm. The plaintiff was a yardsman in the employment of defendants, and on 16th January, 1896, after coupling cars in motion, his foot caught upon the rail, and he fell, and one of the cars passed over his arm. The jury found that defendants were guilty of negligence in not blocking the frog in which the plaintiff's foot was caught. By an order of the Railway Committee of the Privy Council the defendants are absolved from packing frogs and wing-rails during the winter months. The defendants contended that the Railway Committee had the power to make such an order as to frogs as well as wing-rails, under s. 262 of the Railway Act, 1888. They also contended that the evidence showed beyond dispute that plaintiff's foot was caught

in the wing-rail. Appeal allowed with costs, and action dismissed with costs. McCarthy, Q.C., for appellants. Lynch-Staunton (Hamilton), for plaintiff.

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ATTORNEY-GENERAL OF ONTARIO v. HAMILTON STREET RAILWAY COMPANY.

*Lord's Day Act—Running of electric cars on Sunday not within the prohibition—Nuisance—Application of the doctrine of ejusdem generis.*

Judgment on appeal by the Attorney-General and John Henderson, the informant, from the judgment of Rose, J. (27 O. R. 49), dismissing the action with costs. It was brought for an injunction restraining defendants from operating their electric cars upon Sundays. It was conceded in the Court below that the defendants had the right to run their cars on Sunday unless doing so was a violation of the Lord's Day Act, R. S. O. c. 203, s. 1, which provides that "it is not lawful for any merchant, tradesman, artificer, mechanic, workman, labourer, or other person whatsoever, on the Lord's day . . . to do or exercise any worldly labour, business, or work of his ordinary calling (conveying travellers or her Majesty's mail, by land or by water, selling drugs and medicines, and other works of necessity and works of charity only excepted)." Rose, J., held, following *Sandiman v. Breach*, 7 B. & C. 96, *Reg. v. Budway*, 8 C. L. T. Occ. N. 269, and *Reg. v. Somers*, 24 O. R. 244, that the words "or other person whatsoever" in s. 1 of the Act were to be construed as referring to persons ejusdem generis, as the persons named, "merchant, trades-