

STREET, J.

NOVEMBER 18TH, 1904.

TRIAL.

CITY OF HAMILTON v. HAMILTON STREET R. W.  
CO.

*Street Railways—Contract with Municipal Corporation—Sale of Workmen's Limited Tickets—School Children's Tickets—Right of School Children to Use Limited Tickets.*

Motion by defendants to vary minutes of judgment, ante 311.

E. D. Armour, K.C., for defendants.

W. R. Riddell, K.C., for plaintiffs.

STREET, J.—A question was raised as to whether the declaration that defendants are bound to receive the limited tickets called workmen's tickets from all persons during the prescribed hours should be qualified by excepting the case of children between 5 and 14 years of age when going to school. The agreement between the parties was modified on 13th September, 1898, in accordance with by-law 955, by requiring defendants, in addition to the other limited tickets, to "give to any child between 5 and 14 years of age, when going to school, a ticket to go and return on the date of issue, for 5 cents." There is nothing in this amendment to prevent children, when going to school, from paying their fares by using workmen's tickets, provided they use them within the prescribed hours, as they might have done before the amendment to the agreement, if they preferred to do so. The amendment does not make it compulsory upon the children to buy return tickets for 5 cents, when going to school, although it makes it compulsory on defendants to sell such tickets to them if demanded.

Costs of speaking to minutes to be added to plaintiffs' costs of action.

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NOVEMBER 18TH, 1904.

DIVISIONAL COURT.

REX v. PIERCE.

*Constitutional Law—Powers of Provincial Legislature—Loan Corporations Act, R. S. O. 1897 ch. 205—Intra Vires—Penalty—Prohibition—Criminal Law—Conviction—Application of sec. 117, sub-sec. 2—Contracts.*

Appeal by defendants, under sub-sec. 4 of sec. 117 of the Loan Corporations Act, R. S. O. 1897 ch. 205, from their