

REPORTS AND NOTES OF CASES

Province of Ontario.

HIGH COURT OF JUSTICE.

Falconbridge, J.] RICKETTS v. VILLAGE OF MARKDALE. [Oct. 21.

*Municipal law—Highway—Injuries to playing children due to defects—
Liability of municipality.*

Children using a highway merely for the purpose of play are putting it to a use for which it was not intended, and cannot recover for injuries due to defects or obstructions.

An action brought by parents for the death of a child caused by being crushed between some timbers while playing on them, which were negligently piled on the side of a road was dismissed.

A. G. Mackay for plaintiffs. J. B. Lucas and W. H. Wright for defendants. W. J. Hatton for third parties.

Ferguson, J.] Nov 8.

BARRIE PUBLIC SCHOOL BOARD v. TOWN OF BARRIE.

Parties—Joining plaintiff without authority—Motion by defendant to strike out—Solicitor—Retainer—Sufficiency of—Corporate seal—Costs.

Solicitors who began an action in the name of a public school board and an individual as plaintiffs were retained for the board by a special committee appointed by resolution of the board, not under the corporate seal; the purposes of the resolution, as stated on the face of the resolution, embraced the commencement of any action respecting the matters referred to and the employment of counsel, the subject of the action being one of such matters.

Held, that this was not proper authority from the school board to the solicitors to bring the action, and the defendants had the right to have the name of the board as plaintiffs struck out. *Town of Barrie v. Weaymouth*, 15 P.R. 95, followed.

The solicitors having acted in good faith and under the belief that their retainer was sufficient, no costs were awarded.

A. E. H. Creswicke for plaintiffs. Strathy, Q.C., for defendants.