

(2) Following *Hughes v. Justin*, [1894] 1 Q.B. 667, and *Muir v. Jenks*, [1913] 2 K.B. 412, that the judgment should not have been entered for the full amount, and was therefore irregular.

(3) That the appellant was entitled to have the judgment set aside.

(4) It was alleged by the plaintiffs that the entry of judgment for the full amount claimed was in accordance with the practice of the County Court, and on the advice of the Clerk of the Court; but it was held that the practice was irregular, and the judgment was not validated by it; and it was immaterial that this objection was not raised below.

The appeal should be allowed with costs and the judgment should be set aside as irregular, with costs.

Appeal allowed.

SECOND DIVISIONAL COURT.

APRIL 9TH, 1920.

*RE JOYCE AND CITY OF LONDON.

Municipal Corporations—By-law—Agreement between City Corporation and Street Railway Company—Increase in Rates for Passenger Service—Amendment of Former By-law Validated by Statute 59 Vict. ch. 105—Former By-law not Made Part of Statute—Limit for Rates not Exceeded by New By-law—Necessity for Submission to Electors—Absence of Fraudulent or Improper Purpose—Dismissal of Motion to Quash By-law.

An appeal by the Corporation of the City of London from an order of FALCONBRIDGE, C.J.K.B., in the London Weekly Court, quashing city by-law No. 5935.

The London Street Railway Company was incorporated by the Act (1873) 36 Vict. ch. 99 (O.), and sec. 13 of that Act gave power to the council of the city and the company to make agreements for certain purposes. Section 8 provided that the fares should not exceed 6 cents for any distance not more than 3 miles, etc.; but otherwise the rate was not fixed by statute. Agreements were made that the cars should be drawn by horses or mules only. After electricity had become available, an agreement was entered into between the city corporation and the company for electrical equipment, and this agreement and by-law No. 116 giving it effect were declared "valid and effective in all respects" by the Act (1896) 59 Vict. ch. 105, sec. 2 (O.) The agreement and the by-law are set out in schedule A. to the Act, and are interpreted by sec. 2 as having a certain effect therein set out. Section 25 (d)

* This case and all others so marked to be reported in the Ontario Law Reports.