

Queen's Bench Division.

ROSE, J.]

[Dec. 31, 1895.]

ATTORNEY-GENERAL v. HAMILTON STREET RAILWAY.

Sunday—Street Railways—Lord's Day Act, R.S.O., c. 203, s. 1—Construction—Exception.

The words "or other person whatsoever" in s. 1 of the Lord's Day Act, R.S.O., c. 203, are to be construed as referring to persons *ejusdem generis* as the persons named, merchant, tradesman, &c.; and an incorporated company or persons operating street cars on Sunday is not within the prohibition of the enactment.

Sandiman v. Beach, 7 B. & C. 96; and *Regina v. Somers*, 24 O.R. 244, followed.

Semble, also, that the defendants, if the enactment applied, were within the exception as to "conveying travellers."

Regina v. Daggett, 1 O.R. 537, followed.

Regina v. Tinning, 11 U.C.R. 636, not followed.

Moss, Q.C., and *A. E. O'Meara*, for the plaintiff.

Edward Martin, Q.C., and *Kirwan Martin*, for the defendants.

BOYD, C.)
ROBERTSON, J.)

Jan. 7.

FARMERS' BANK v. SARGENT.

Summary judgment—Promissory note—Unconditional leave to defend.

On a motion for summary judgment under Rule 739 in an action upon a promissory note, one of the defendants gave facts on affidavit showing that the note was without consideration, invalid, and fraudulent as to the first holders, and stated his belief that the plaintiffs were suing on behalf of the first holders and had notice of the circumstances invalidating the note, but stated no facts as to such notice.

Held, that the defendant should have unconditional leave to defend.

E. T. English, for the plaintiffs.

M. Wilkins, for the defendant.

Divisional Court.

BOYD, C.)
STREET, J.)
MEREDITH, J.)

[Jan. 9.]

In re CURRY, CURRY v. CURRY.

Administration order—Executor—Reference—Conduct of—Parties.

An accounting party should not have the carriage of the proceedings in the Master's office, especially where there is competition between an executor and beneficiaries as to who should be first in obtaining an administration order.