

*Held*, that the defendant had acquired no title by possession to the strip of land in dispute; and that the provisions of the Registry Act precluded him from setting up title to any part of lot 4 as laid down upon the registered plan.

*Semble*, that, but for the provisions of the Registry Act, the strip might have passed to the defendant by the mortgage to him of lot 3 in 1892, which was made pursuant to the Short Forms Act, under the "general words" implied in such mortgages.

*McNish v. Munro*, 25 C.P. 290; *Hill v. Broadbent*, 25 A.R. 159, and *Winfield v. Fowle*, 14 O.R. 102, considered.

*Kidd*, for defendant Mansfield. *Burbidge*, for plaintiff. *Beament*, for defendants A. P. and Ida Mutchmor.

Street, J.]

[Nov. 3, 1904.]

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

*Street railways—Contract with municipality—By-law—Intra vires—"Workmen's tickets"—Amendment—"School children's tickets"—Action to enforce contract—Parties—Attorney-General—Specific performance—Injunction—Declaration of right.*

*Held*, upon the proper construction of the defendants' Act of Incorporation, 36 Vict. c. 100 (O.), the amending Acts, 56 Vict. c. 96, and the contract and by-law contained in the schedule to the latter Act, that the defendants were bound to sell tickets called "workmen's tickets" upon their cars to the public, and to receive them in payment of fares at the hours mentioned in the by-law, not from workingmen only, but from the public generally; and that the provision of the by-law in that behalf was not ultra vires of the plaintiffs.

The aforementioned contract was modified in accordance with a subsequent by-law of the plaintiffs, by requiring the 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 five cents."

*Held*, 1. There was nothing in this amendment to prevent children, when going to school, from paying their fares by using workmen's tickets, within the prescribed hours.

2. The plaintiffs could maintain an action for a mandamus or mandatory injunction to compel the defendants to continue to sell workmen's tickets, without adding the Attorney-General as a party representing the public.

The defendants, having refused to sell certain classes of tickets upon their cars, or to accept them from persons from whom they were bound to accept them in payment of fares, were