

rule nisi to quash a by-law to provide for the carrying of the Hamilton & Lake Erie Railway along certain streets in the village of Caledonia, expressed the opinion that properly the railway company should have been a party to the rule.

The same might, not improperly, be said of the School Board in this case, and that being so it may well be permitted to intervene under the present circumstances. As to the rule or practice of the Judicial Committee, see Safford & Wheeler, Privy Council Practice, p. 818.

Probably it will be sufficient for all purposes to order that the school board be at liberty at its own expense to appear and be represented by counsel upon the argument of the appeal, and support the present judgment. If any further question of costs arises it can be dealt with upon the final disposition of the appeal. The order will contain an undertaking on the part of the school board to submit to, and abide by any order as to costs to be made on the appeal.

GARROW, MACLAREN, and MAGEE, JJ.A., concurred.

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MAY 10TH, 1911.

PAQUETTE v. GRAND TRUNK R.W. CO.

*Railway—Negligence—Contributory Negligence—Findings of Jury not Justified by Evidence—Improper Light—Excessive Speed—Actionable Negligence not Proved.*

Appeal by the defendants from the judgment of MULOCK, C.J. Ex.D., at the trial, with a jury, on the 28th October, 1910.

The appeal was heard by MOSS, C.J.O., MACLAREN, MEREDITH, and MAGEE, JJ.A.

D. L. McCarthy, K.C., for the defendants.

A. E. Fripp, K.C., for the plaintiff.

MOSS, C.J.O.:—The plaintiff, a car cleaner in the employment of the defendants, claims in this action damages from the defendants for injuries he received through being struck by a locomotive engine of the defendants while walking upon the track upon which the engine was moving. The jury found that he was not guilty of any negligence which caused or contributed to the accident, upon evidence which, but for the finding, would appear to shew very convincingly that the injuries were