

It was strenuously argued by counsel for the appellant that the obligation imposed upon the respondent by its Act of Incorporation and its agreement with the Corporation of the City of Hamilton as to the fare to be charged for "riding any distance" on the railway "within the city in the same continuous route" has the effect of requiring the respondent to stop its cars at any point in Hamilton at which a passenger desires to disembark, but that is not, in my opinion, the effect of this provision, and it is not inconsistent with the right of the respondent to run a particular car from its terminal in Hamilton to Dundas without making any intermediate stop. One can well understand that such a service would be a public convenience to persons who desired to travel from Hamilton to Dundas at the time the car upon which the appellant took passage left Hamilton (6.15 p.m.) and that the efficiency of the service would be destroyed if the respondent was bound to stop the car at any point on its line at which a passenger desired to disembark.

Apart from regulation by the Ontario Railway and Municipal Board, or some provision of the Act of Incorporation or agreement, I can see no reason why the respondent should not have the same right as a steam railway company to run cars or trains from one point on its line to another without making any intermediate stops, and of the right of a steam railway company to do this there can be no doubt.

It is unnecessary, in the view I take, to consider what is the effect of the direction made by the Board on the application of certain residents of Dundas for a better service between that town and Hamilton. According to the testimony of the respondent's superintendent, the direction was that the respondent should put on a through car between those points to run through without stops and that the car in question was put on and run in obedience to that direction. It is sufficient to say that if the other objections to the appellant's contention did not exist, this direction would probably be a formidable difficulty in the way of her success.

In my opinion, the learned Judge of the County Court rightly held that the action failed, and his judgment should be affirmed and the appeal be dismissed with costs.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE HODGINS agreed.