

The appeal was heard by MEREDITH, C.J.C.P., BRITTON, RIDDELL, LATCHFORD, and MIDDLETON, JJ.

Peter White, K.C., for the appellants.

F. W. Wilson, for the plaintiffs, respondent.

MEREDITH, C.J.C.P., giving the judgment of the Court at the conclusion of the argument, said that this case was one essentially for the jury. It was fairly and fully tried: it went to the jury upon a charge not objected to on either side; and the jury found unequivocally in favour of the plaintiff, and assessed damages at a sum not said to be unreasonable by any one.

A verdict so found ought to stand: no appeal lay against it; the Court could interfere with it only if it were such an one as reasonable men could not find. It was anything but that. The car upon which the woman was a passenger was crowded: approaching the place where she desired to alight, she gave the proper signal to those in control of the car to stop—pressed the electric bell button—and at the proper time began to work her way, through the crowd, to the going-out door of the car, to alight. The driver of the car had accepted and was acting upon her signal to stop; and then the conductor in charge of the car, seeing her, called out to those who were blocking her way to make way for her so that she might “get off.” Having made her way to the proper door, and finding it open, she stepped off and was thrown down and hurt, because, at the moment, the car was moving—it had almost, but not quite, stopped. Her way was impeded by other passengers even to the last step before alighting; and all this, as well as all the woman did, was done near to, and under the eyes of, the conductor; and so all that she did was apparently done with his approval. The door of the car ought to have been closed until the car had stopped; the car was one of that kind known as “pay-as-you-enter” cars, which are opened and closed ordinarily by the conductor from his place within the car; but on this occasion the door had not been closed while the car was in motion, only because the car was so overcrowded that the door could not be closed; one man at least was standing on the last step when the woman worked her way through the crowd and stepped off; but no one, either conductor or passenger, did or said anything to prevent her, or warn her against, stepping off. So that what she did could hardly have seemed imprudent to her or to any one there. In all these circumstances, if reasonable men could not find that the proximate cause of the woman’s injury was a neglect on the defendants’ part of the duty they owed to her as a passenger, then the Chief Justice himself must be counted among the unreasonable. The overcrowding was a breach of the defendants’ duty and contract; the open door and