fact that he did make it as owner of the goods for the whole loss sustained by the unmarketable (for wholesale purposes) condition of the fruit when it was received by him.

In this action, taken by him and maintained for months against the carriers, the defendant sustained that view of the case which the Court now deemed to be the right one: that is, that he should look to the carriers for his loss. He did not seem to have receded from it until the plaintiffs' claim for the price of the goods was pressed.

Besides all this, the invoice of the goods, according to the course of trade between the parties, expressly exempted the sellers from liability for loss such as that which is the basis of this action. That particular invoice did not come to the defendant's hands until after the purchase of the goods, but others had; and he must have known that, in regard to goods shipped as these were, that was one of the sellers' terms of such a sale as that in question. In the face of such an expressed term, an implied term, the opposite of it, was out of the question.

The appeal should be allowed, and judgment should be entered for the plaintiffs for the amount of their claim.

SECOND DIVISIONAL COURT. APRIL 15TH, 1919.

SETTERINGTON v. SANDWICH WINDSOR AND AMHERSTBURG RAILWAY.

Street Railway—Injury to Passenger Alighting from Moving Car—Negligence of Servants of Railway Company Operating Car—Overcrowding—Exit-door Left Open—Absence of Contributory Negligence—Findings of Jury.

Appeal by the defendants from the judgment of MULOCK, C.J.Ex., upon the findings of a jury, in favour of the plaintiff, for the recovery of $500 damages.

The plaintiff was a passenger in a car of the defendants, from which she attempted to alight while it was in motion; she fell and sustained the injury of which she complained. She alleged negligence on the part of the servants of the defendants operating the car.

The jury found that the defendants were guilty of negligence, which consisted "of an open door while the car was still in motion," and that there was no contributory negligence on the part of the plaintiff; they assessed her damages at $1,500.