

passengers. He controls the trolley pole, and his duty is to see that it is in constant contact with the power wire. The motorman corresponds to the engineer of a locomotive. He controls the machinery and applies and shuts off the power which causes the car to move. Like the locomotive engineer he must guard against collision with persons or vehicles but he is not at liberty to start unless he receives the proper signal from conductor. Could it be said upon the ordinary steam railway that the conductor of a train was not in charge of the train? The conductor is just as sensitive to snow, cold, rain and sleet as the motorman and as much within the mischief sought to be provided against as the motorman. It may be true that he is not so constantly exposed to the weather as the motorman, but he is a large portion of his time on the rear platform of his car in all weathers.

It was argued that a vestibule at the rear of the car would interfere seriously with the proper working of the car. That is an argument to be addressed to the City Council, the legislative body responsible for the by-law. The City Council has used language which in my opinion was intended to extend the protection of vestibules to employees operating the street car, and they must be deemed to have fully considered all objections to the construction of vestibules upon the cars. The by-law is to apply to motorman and persons in charge of such car while engaged in operating such car. The word operate means in its intransitive form "to work, to labour, to act, to have agency, to produce any effect." In its transitive form it means "to affect, to produce by agency." Operating in the Imperial Dictionary is defined "acting, exerting agency or power, performing some manual act in surgery." To operate a railway is to conduct the business of the undertaking in all its phases. To operate a car or train of a railway means, so far as that particular car or train is concerned, to conduct or carry on the business of the railway to the extent that such car or train is capable of being employed as part of the whole undertaking. All persons necessarily employed to properly manage its cars or trains are engaged in operating the same on behalf of their employers, the company. The conductor, I have already pointed out, is a person in charge of the car. He operates the car for he directs its movements. He is solely in control of the trolley pole and therefore can at any moment deprive the car of its motive power by detaching the pole from the wire. He is the company's agent to collect the fares from the passengers—the fruits of operating such car. The motorman also takes a part in operating the car for he handles the mechanism which admits or cuts off the electric current, but the electric current which he manipulates reaches him only by way of the trolley pole which is under the control of the conductor. I think it is beyond reasonable doubt therefore that both conductor and motorman are engaged in operating the car.

In the opinion I have formed of the relative positions of conductor and motorman it is unnecessary to invoke the doctrine of *ejusdem generis*. The word motorman is not followed by any other specific words and itself exhausts the whole class or genus. The general words which follow must