

has very much widened the scope of the Act, and quite distinguishes *Murphy v. Wilson* from the present case. See also *Dunlop v. Canada Foundry Co.*, ante 791, at p. 796, where it was held that a hoist was a machine or engine and the rails upon which it ran a tramway, within the meaning of the Act.

Sub-section 5 applies to a temporary railway laid down by a contractor for the purposes of construction work: *Doughty v. Firbank*, 10 Q.B.D. 358; and applies to railways operated under the Railway Act of the Dominion: *Canada Southern R.W. Co. v. Jackson*, 17 S.C.R. 316.

I am of opinion that the plaintiff is entitled to retain his judgment upon the findings of the jury.

Appeal dismissed with costs.

JUNE 16TH, 1913.

*SPENCER v. CANADIAN PACIFIC R.W. CO.

Carrier—Railway—Passenger— Loss of Luggage Checked on Passenger's Ticket—Limitation of Liability—Condition on Back of Check—Absence of Knowledge or Assent on Part of Passenger.

Appeal by the defendant company from the judgment of DENTON, JUN. J. of the County Court of the County of York, in favour of the plaintiff for the recovery of \$350.50 in an action for damages for the loss of a trunk and contents in course of carriage by the defendants.

The appeal was heard by MULLOCK, C.J. Ex., CLUTE, RIDDELL, and SUTHERLAND, JJ.

Shirley Denison, K.C., and C. W. Livingston, for the appellant company.

J. W. Bain, K.C., and M. L. Gordon, for the plaintiff.

MULLOCK, C.J.:—The facts are not in dispute. Mrs. Spencer, the plaintiff, at the Toronto office of the defendant company, paid the proper fare for a first-class passage for herself from Toronto to St. Thomas and return, and was thereupon handed a return

*To be reported in the Ontario Law Reports.