

find no sufficient ground for reversing the finding of the trial Judge.

The appeal in my opinion should be dismissed.

HON. MR. JUSTICE MEREDITH (*dissenting*):—The learned trial Judge, with the expressed assent of the defendants, and the tacit assent as well, no doubt, of the plaintiff, withdrew this case from the jury and determined it altogether himself, with the exception of the single question: "Was the trap-door down and the vestibule door closed between the car upon which the plaintiff was a passenger and the Pullman car in rear of it, when the train came to a stop at Weston?" and the assessment of damages; and so the case stands in a very different position upon this appeal now than it would stand if the case had been tried in the more usual way—if the jury had been required to find, and had found, upon all the material questions of fact involved in the case.

The jury's answer to the one question was "Yes;" and they assessed the damages at \$2,500; findings which must stand, because there was evidence adduced at the trial upon which reasonable men might so find; and there is no appeal against a jury's finding.

But in regard to all other material facts, there is an appeal; and this Court is bound now to consider such facts, and if they prove to be, plus the findings of the jury, insufficient to support the judgment directed at the trial, to be entered in the plaintiff's favour, it cannot stand.

There is no finding of negligence on the part of the defendants, by the jury, nor indeed, expressly by the Judge; nor, if such negligence, that it was the proximate cause of the plaintiff's injury. The mere fact of this particular door being closed "when the train came to a stop" might be evidence of care rather than lack of care. It may be that the jury, if asked, would have found that it was not open at all during that stop. But they have not done so. The evidence of the plaintiff and that of his companion at the time, is not very clear in regard to this. They say that they rose from their seats before the train had quite stopped, and went to the platform and found the outer doors closed; that the plaintiff's companion made an effort to open them but could not, and that they then went on through the next car, a Pullman, reaching its rear doors