

The car was one of those in which passengers are required to pay their fares as they enter the car; there was an exit and an entrance on the back platform of the car.

It is, of course, the duty of the conductor to see that all persons who desire to and can board the car when it stops to take on passengers, are safely on board before giving the signal to start the car on its journey; but the plaintiff, having chosen to board a car that he knew was about to start, and so likely to start at once that he ran to catch it, and having chosen to board it when it was so crowded that he could get only a footing on the lower step, having chosen to do so and to take the ordinary chances of so doing rather than wait for the next car, was unreasonable in contending that the conductor was in duty bound not only to see him so on board, but to watch his movements afterwards and not to start the car until he was in such a position that no backward movement on his part could put him in danger. Conductors have other duties to perform; and passengers too have duties, one of which is not to put themselves needlessly in a dangerous position, not to attempt to board a car, known to be immediately about to be started, when the entrance to that car is so crowded that it cannot be safely boarded; if a passenger choose to make way for another coming out the wrong way, when it is known that the car is immediately about to be started, and, instead of getting off, swings around into an awkward position likely to cause his dislodgement if the car moves, the fault is his.

If the plaintiff be not blamed neither should the defendants for this accident.

The appeal should be allowed and the action dismissed.

RIDDELL, J., was of opinion, for reasons stated in writing, that, assuming that the defendants were negligent, on the plaintiff's own story he contributed to the accident by his own want of reasonable care. The appeal should be allowed.

KELLY, J., read a short judgment in which he stated the facts and said that, on the plaintiff's own evidence, he knowingly took chances and placed himself in a position of danger, and that but for his failure to take reasonable care he would not have been injured. The appeal should be allowed.

MASTEN, J., was of opinion, for reasons stated in writing, that the defendants were guilty of negligence which caused the