and it was conceded that the lowest step was 21 inches above the crossing or platform at which the car purported to stop, and was 33 inches above the ground at the place where the car overshot the crossing or platform and where she alighted.

It was argued that the statute under which the defendants operated required that the cars should stop when and where directed by the Corporation of the City of Toronto, and that this stopping place was one fixed by the corporation under the Act; and that, there being no power given to the defendants to erect on the highway a platform for its passengers to alight upon, it was not their duty, but that of the city corporation, to see that the proper facilities for passengers to alight were there provided. But the order did not so provide. By force of the statute and order, this obligation was put upon the defendants; and the erection or equipment which it was necessary to provide thereunder was not a platform erected by the city corporation, but a step on the defendants' car meeting the requirements of the order of the Board. The defendants did not furnish such a step; and it must have been apparent to them that, without such a step or a platform, the place where it was admitted the plaintiff was invited to alight was dangerous. The jury had found both the danger and the neglect to provide the step required by the statute, and also that the danger and neglect were the proximate cause of the accident.

The question whether the order of the Board was unreasonable or impossible to comply with was not open for consideration by this Court.

Appeal dismissed with costs.

HIGH COURT DIVISION.

FALCONBRIDGE, C.J.K.B. MAY 13TH, 1918.

SCOTT v. FISHER.

Sale of Goods—Inferior Quality—Action by Vendee for Damages—Fruit Packed in Baskets—Charge of "Facing"—Failure to Prove—Fruit Sales Act, R.S.O. 1914 ch. 225, sec. 2—Evidence—"Orchard-run."

Action to recover $800 money loss alleged to have been suffered by the plaintiffs in respect of car-loads of peaches bought