

U. S. Rep.]

ADAM DIETRICH v. PENNSYLVANIA A. R. R. Co.

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where Young's portion of the route ended. After leaving Altoona, Hankins, the conductor from Altoona to Pittsburgh, came around, and the plaintiff exhibited his drover's ticket. Hankins refused it, and put him off at Gatlitzin, at the next end of the mountain tunnel. The plaintiff got on without leave, and Hankins again refused his ticket, the plaintiff paid his fare from Altoona to Pittsburgh.

On his cross-examination, the plaintiff stated that Hankins was not rude or unkind, and told him it was his duty to collect the fare or put him off. Dietrich said to him, I want this tested and I want you to put me off gently. The question is, therefore, simply upon a breach of the contract for carriage, and depends on its terms. Before examining the terms of the ticket, it is proper to clear the case of some immaterial matters. Stress is laid on the statement of Wimer, that the restriction as to stopping off was not intended for such men as he, who shipped stock over the road every week. This clearly has no influence whatever, in ascertaining or interpreting the terms of the ticket he afterwards purchased from the proper ticket agent. Wimer was a mere freight agent, whose duty had no relation to the sale of tickets, but was confined to giving the required certificate to entitle Dietrich to a drover's ticket. When Dietrich went to Franciscus, and asked him to make the ticket so as to stop off at Lancaster, Franciscus said, "No, sir." He admits that he knew of the restriction as to stopping off, which his request implies, and that he had seen Young refuse another drover's ticket for this cause, and that in consequence he had been in the habit of buying a ticket from Philadelphia to Lancaster, when he wished to stop off. The restriction, and his knowledge of it, if this were necessary, are plainly proved by himself. It is evident therefore, that the plaintiff is thrown upon his ticket and the terms it imports or recognizes, as the evidence of his right of transit over the defendant's road. The ticket is in these words: "Drover's ticket. Not good on the Philadelphia Express. Good only in the hands of Mr. A. Dietrich for one seat from Philadelphia to Pittsburgh. This ticket good only until March 16th, 1867. Issued March 11th, 1867. S. H. Wallace, Agent." On the back is stamped Penn'a R. R., March 11th, 1867, Philadelphia. Such tickets are evidence of the payment of the fare, and of the right of the holder or party named, as here, to be carried according to its terms. So far as they are expressed the terms are binding of course, but such tickets are not the whole contract, which must be gathered, so far as not expressed, from the rules and regulations of the company in running its trains. This is the generally received doctrine; with the qualification, however, that these rules and regulations must be reasonable and not contrary to the terms expressed. See *Johnson v. The Concord R. R. Co.*, 46 New Hampshire Rep. 312 and cases there cited. *The State v. Overton*, 4 Zabriskie, 435. *The Clew. Col. & Cin. R. R. Co. v. S. H. Bartram*, 11 Ohio St. Rep. 457. *Cheney v. The Boston & Maine R. R. Co.*, 71 Metcalf, 121. With the same qualifications of reasonableness it is also well settled that one who buys

a ticket is bound to inform himself of the rules and regulations of the company governing the transit and conduct of its trains. Thus he must ascertain the train in which he is to go, the time of its departure and arrival, its stopping stations, his right to get off and get on, to resume his trips, &c. See the cases *supra*. If the law were otherwise a railroad company could not regulate the running of its trains to suit the interests of the public or of themselves. For this purpose some trains must be fast with few stoppages, others must be slow with frequent stoppages, some must be through trains and others local. It is very clear that a passenger with a through ticket cannot require a local train to carry him through. Nor can he require a through train to stop at a way station not in its time-table. His even having a stop-off ticket would not increase his right to require the train to stop at a station not in its time-table.

It is evident that if in such cases the holders of tickets can compel the trains to alter regulations, they would be governed by the passengers and not by the company. An excursion party on this principle, stopping off at will, would overcrowd a subsequent train to the discomfort of the proper passengers, and to the prejudice of the interests of the company. The authorities, as well as the reason of the thing, shews that the company must make its own regulations, and that passengers purchase their tickets subject to these reasonable rules, and that it does not lie on the company to bring home notice of them in order to establish the terms of the contract of carriage. In this case the testimony of the plaintiff himself clearly shows that his ticket did not entitle him to stop off at Lancaster, and if notice were necessary that he knew that fact. This brings us now to the question, whether the face of the ticket, by its terms imports a right to stop off. The first noticeable and very obvious thing is, that the terms on the face of the ticket are very restrictive. It is expressed to be a "Drover's ticket." It cannot be used by any other than a drover. Then it is not good on the Philadelphia Express; it is "good only in the hands of Mr. A. Dietrich;" no one else can use it—then, "this ticket is good only until March 16th, 1867." It is therefore not good after that day. It is restrictive from the beginning to the end, and is wholly unlike a general ticket, which any holder may use, within any reasonable time; and yet even as to such tickets the authorities are clear—the right to stop off at intermediate un-named points does not exist unless by means of stop-off tickets, or the customary rules of passage. The express terms of a drover's ticket being all restrictive without exception, it gives no countenance to an implied right to stop off. The reason is obvious also—the ticket is sold at less than half price—that is, this was for five dollars instead of eleven. Its purpose is special, and the restriction in time (until the 16th of March) was to prevent abuse of the benefit intended to be conferred on a particular class of persons. With all these restrictions on the face of the ticket, and in full view of the purpose of the ticket, it is obviously impossible to interpret the words, "good only until March 16th," into an enlargement of the contract, so that it shall read, contrary to the regulation of the company,