

train was passing through the Province of Ontario, an accident happened and C. was killed. In an action by his dependents, instituted in the Province of Quebec, it was shewn that C. could neither read nor write, except to sign his name, and that he only understood enough English to comprehend orders in respect of his occupation as a stock-man; there was no evidence that the nature of the conditions was explained to him.

*Held*, Fitzpatrick, C.J., dissenting, that the railway company was liable for damages in the action by the dependents.

*Per* Davies, Idington, Duff, and Brodeur, JJ. (Fitzpatrick, C.J., and Anglin, J., contra), that, as C. could not have known the nature of the conditions or that they released the company from liability, and the company had not done what was reasonably sufficient to give him notice of the conditions on which he was being carried, the company was liable in damages either under the law of Ontario or that of Quebec.

*Per* Anglin, J.:—Although no action would lie in Ontario unless the deceased would have had a right of action, had he survived, and such an action would have been barred there by the contract signed by him, nevertheless, in Quebec, where there is no such rule of law, the action would lie, though the wrongful act had been committed in Ontario, as it was of a class actionable in Ontario: *Machado v. Fontes* ((1897), 3 Q.B. 231), applied.

Section 340 of the Railway Act, R.S.C. 1906, c. 37, provides that "no contract, condition, or notice made or given by the company impairing, restricting or limiting its liability in respect of the carriage of any traffic shall relieve the company from such liability unless such class of contract . . . shall have been first authorized or approved by order or regulation of the Board. (2) The Board may, in any case or by order or regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited." The Board made an interim order permitting the use by the company, until otherwise determined, of the shipping form used, but did not expressly authorize the form containing the conditions signed by deceased.

*Held*, *per* Fitzpatrick, C.J., and Davies, and Anglin, JJ. (Idington, Duff, and Brodeur, JJ., contra), that the contract signed by deceased was one of a class authorized by the Board.

*Per* Duff, J.:—The contract signed by deceased could not have the effect of limiting the liability of the company because