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of no avail that the ticket does not show it, since that is the carrier's fault, not that of the passenger. There is no obligation resting upon the passenger to see that the carrier's agents perform their duty since he may presume that they will. *New York L. E. & W. Ry. Co. v. Winter, Admin.*, 143 U. S. 60; *T. & P. Ry. Co. v. Payne*, 99 Tex. 46; *Burnham v. G. T. Ry. Co.*, 63 Me. 298; *Ellsworth v. Ry. Co.*, 95 Iowa 98; *Yorton v. Mil. L. S. & Wes. Co.*, 62 Wis. 367; *Morrill v. Minn. Ry. Co.* 103 Minn. 362; *Laird v. Traction Co.*, 166 Pa. 4; *Kansas City etc. Co. v. Riley*, 68 Miss. 765; *Lawshe v. Railroad*, 29 Wash. 681; *O'Rourke v. Railway Co.*, 103 Tenn. 124; *L. & N. Ry. Co. v. Gaines*, 99 Ky. 411. The authorities that take the opposite view and hold that the carrier is not liable for the ejection, but only for the breach of contract, place their decisions upon the ground that it is reasonable and necessary that the ticket should be conclusive as to the conductor, of the passenger's right to be carried. It is not an unreasonable rule to require passengers to either pay a cash fare or present a proper ticket, as the notice of it is so general as to be presumably within the knowledge of all. *Norton v. Railroad*, 79 Conn. 109; *Riley v. Railroad*, 189 Ill. 384. The public is interested in the efficient handling of the passenger traffic, and the disputes that are bound to arise between the conductor and the passenger if the ticket is not conclusive, would be detrimental. *Hufford v. Grand Rapids*, 53 Mich. 118; *Penn. Ry. Co. v. Connell*, 112 Ill. 295. In *Frederick v. M. H. & O. Ry. Co.*, 37 Mich. 342, the leading case upon the subject, Judge MARSTON says: "There is but one rule that can safely be tolerated with any decent regard to the rights of railroad companies and passengers generally. As between the conductor and the passenger, and the rights of the latter to travel, the ticket produced must be conclusive evidence." Judge COOLEY in following this case in *Hufford v. Railroad*, supra, states that "No other rule can protect the conductor in the performance of his duties, or enable him to determine what he may or may not lawfully do in managing the train and collecting the fares." In accordance with this view are: *Crowley v. Railroad*, 185 Mass. 279; *Brown v. Rapid Ry. Co.*, 134 Mich. 591; *Western Md. Ry. Co. v. Schaun*, 97 Md. 563; *McKay v. Railroad*, 34 W. Va. 65; *McGee & Fink etc. Co. v. Reynolds*, 117 Ala. 413; *Little Rock Ry. etc. v. Goerne*, 80 Ark. 158; *Virginia etc. Co. v. Hine*, 105 Va. 729. In the principal case the court admits that the company has a right to put a time limit on the transfer and that it will be binding on the passenger provided the company uses due efforts to have a car pass the intersecting points within the time limit, which in this case they did not do and hence the plaintiff was allowed to recover.

CONSTITUTIONAL LAW—POLICE POWER—EQUAL PROTECTION OF LAWS—  
 "PUBLIC DANCING ACADEMY."—Relator, a dancing teacher in New York City was arrested by the defendant for willfully and unlawfully running a "Dancing Academy," without first having obtained a license as provided and required by Chap. 400 of Laws of 1909. *Held*—the act is arbitrary and discriminates unjustly against public dancing academies and in so far as it requires a license is void. *People ex rel. Duryea v. Wilber County Peace Officer* (1910), — N. Y. —, 90 N. E. 1140.

An individual has a right to carry on a lawful business in a lawful way. *Schnaier v. Navarre Hotel & Importation Co.*, 182 N. Y. 83, 70 L. R. A. 722, 74 N. E. 561. *Lochner v. New York*, 198 U. S. 45, 49 L. Ed. 937, 25 Sup. Ct. 539. A license can only be required for the purpose of protecting the interests of the municipality in one of the ways recognized as within the lawful exercise of the police power. *Wright v. Hart*, 182 N. Y. 355, 75 N. E. 404; *Lawton v. Steele*, 152 U. S. 133, 38 L. Ed. 385, 14 Sup. Ct. Rep. 499. Licenses have been required for places of amusement. *Wallack v. Mayor of New York*, 3 Hun 84. The tendency of such places is to draw crowds needing police supervision. *Mayor of N. Y. v. Eden Musee American Co.*, 102 N. Y. 593, 8 N. E. 40. This reason does not apply to this case; there being no necessity for police supervision over a school for dancing. Four judges concur in the above and four dissent.

COPYRIGHTS—INFRINGEMENT—MUSICAL COMPOSITION.—A rather amusing case arose recently in New York in which the circuit court of that state decided that a song which was being published by the defendant, entitled, "I Think I Hear a Woodpecker Knocking at my Family Tree" was too much like a song previously concocted by the complainant, called "The Arab Love Song," which was copyrighted. It was therefore ordered that an injunction issue *pendente lite* forbidding the defendant from publishing the chorus of his song. *Hein et al. v. Harris* (1910), — C. C., S. D. N. Y. —, 175 Fed. 875.

The defendant denied the infringement and furthermore asserted that the complainant in the melody of his chorus had imitated other songs of similar type, especially "Bon Bon Buddy," "The Glow Worm," "By the Sycamore Tree" and the "Mobile Prance." The court takes up the two "rag times" bar for bar, finding thirteen out of the seventeen bars of the chorus substantially the same in each song. The question of infringement, says the opinion, does not depend upon the musical merit of the piece, nor the fact that it was borrowed in general from the style of predecessors unless it is substantially copied from some other so that to the ear of the average person the two melodies appear to be the same. It would seem from the following quotation from the opinion that music of this nature was not in the high favor of the court. "The defendant urges with much truth that both his own and the complainant's songs are in the lowest grades of the musical art. The vogue, which for a number of years this style of composition has obtained, which is popularly known as "ragtime," has resulted in numberless songs, all of the same general character. It has been a fact that they each bear strong resemblance to every other, and to any expert ear they have a monotonous similarity, which only adds to the general degradation of the style of music which they represent." A case decided in 1845 held that a song might be practically the same as one already copyrighted, yet there would be no infringement if it was the effort of the composer's own mind and was not actually taken from the piece for which the copyright was obtained. *Reed v. Carusi*, Fed. Cas. 11, 642 (Taney 72). The court in the principal case seems to lay down a different rule as shown