

Pullman etc. Co. v. Reed, sometimes cited in support of the minority rule, is not in point, as the decision rested upon another point; and the remarks of Mr. Justice Scholfield do not support the minority rule even as *obiter dicta*.

Sanford v. Eighth Avenue R. Co., was a case in which the conductor, in expelling the passenger, used so much violence that the passenger was killed. The company was held liable for the wrong, and it is clear that remarks of the court on the "duty" of the passenger to pay his fare are very unimportant in determining the decision of the case.

Magee v. O.R. & N. Co., also sometimes cited in support of the minority rule, is far from being in point; for no contract of carriage was proven.

We shall now examine some of the decisions to the effect that a passenger may recover for a wrongful rejection even though he might have prevented it by acceding to the unlawful demand of the carrier.

Plaintiff having a mileage book, but, through the fault of the defendant, not having procured a ticket in exchange for mileage coupons, was wrongfully ejected from defendant's train.' The Supreme Court of North Carolina said: "It was further contended that there was error in allowing substantial damages for the wrong done defendant by reason that plaintiff might have prevented or avoided his chief grievance by paying the small amount of money demanded for his fare, but no such position can be allowed to prevail in this jurisdiction. The court has held, in several recent cases, that where one has been injured by the wrongful conduct of another he must do what can be reasonably done to avoid or lessen the effects of the wrong * * *. But the principle * * * does not arise or apply until after a tort has been committed or contract has been broken. A person is not required to anticipate that another will persist in misdoing until after a tort has been committed or contract has been broken. A person is not required to anticipate that another will persist in his course beforehand so as to avoid its result. On the contrary, he may assume to the last that the wrongdoer will turn from his way or in any even he may stand upon his legal rights and hold the other for the legal damages which may ensue.

In the latter case cited below, speaking to this question, the court said: 'Lenhart paid for and presented a legal ticket. To