

any effect in altering the common law duties and liabilities of prison officials, who, like soldiers, are subject to the ordinary law. So that in substance the acts of a warder can be justified, if at all, by reference to the duties of gaolers and officers of justice in preventing an escape or in pursuit of a fugitive felon. The convicts by escaping were committing a felony under the Transportation Act of 1824. The deceased convict Carter was in flight, not in resistance, but the day was foggy, and the chances of escape increased by the risk of his getting out of sight if not promptly stopped, and the warder before shooting had called out "Stop, or I will fire." The warder clearly had a legal duty to prevent the escape and to recapture the fugitive if possible, and while one of the Home Office Rules forbade guards to shoot at prisoners except in case of violence or threatened violence (*i.e. se defendendo*), another stated that it was the first duty of a guard to prevent the escape of a prisoner. But his justification must rest on the question whether, having legal authority and duty to apprehend the fugitive, he reserved his fire until it was reasonably clear that without firing he could not prevent his escape, although the circumstances did not involve any direct resistance by the fugitive felon.—*Law Journal*.

CARRIERS—FAILURE TO HEAT CAR—DAMAGES.

In *Taylor v. Wabash R. R. Co.*, decided by the Supreme Court of Missouri in December, 1896 (38 S. W. R., 304), the action was for damages, on the theory that plaintiff suffered a severe illness, and impairment of his ability to work, as a direct consequence of a cold which he contracted while a passenger in defendant's railway car. There was evidence to the effect that the car was very cold; that plaintiff notified the trainmen of his suffering, and repeatedly requested them to make a fire; that there were stoves in the car, and defendant could easily have supplied the needed heat. It was held that the merits of plaintiff's case should have been submitted to the jury. It was further held that it was a question for the jury whether plaintiff was chargeable with contributory negligence because he did not leave the car at some station, made no effort to procure additional wraps from his trunk in the baggage car, took off his overcoat at one time to give his wife the benefit of its warmth, and wore