

"but must be left to the legislature, who may, if they please, put a stop to this mode, which the carriers have adopted, of limiting their liability."

And now as to what statutory alteration should be made in the law. We are not at a loss for a guide in this, for we have the English statute, 17 & 18 Vic., cap. 81, sec. 7, which, with such modifications as the requirements of business in this country or the experience of mercantile men might suggest, would, we think, in a great measure remedy the evils complained of. The enactment is to the following effect:—

That every company (confined in England to railway and canal companies) shall be liable for all loss or injury to any animal or thing in the receiving, forwarding or delivery of them, occasioned by the neglect or default of such company, notwithstanding any notice or conditions made or given by such company contrary thereto; every such notice or condition being declared null and void. Provided that such company may make any conditions in the premises, which shall be adjudged, by the court or judge before whom any question affecting the matter is tried, to be just and reasonable.

The section makes further provision, limiting the amount of the liability of the company in certain cases, unless the value is declared to them and an extra payment made. Proof of the value is on the person claiming compensation, and no special contract shall be binding unless signed by the person delivering the goods for carriage.

The facts of the case of *Allday v. The Great Western Railway Co.*, 11 Jur. N.S. 12, referred to by the Chief Justice in *Bates v. The Great Western Railway Co.*, as exemplifying the benefit of the English act, were as follows: the plaintiff delivered cattle to the defendants to be carried to B station, and at the same time signed a ticket, containing certain conditions, whereby the company claimed immunity "from any consequence arising from over-carriage, detention or delay in, or in relation to the conveying of the said animals, however caused." The cattle were over-carried, and suffered in consequence. The court held that the deterioration of the cattle was an "injury" within the statute already referred to, and that the condition attempted to be imposed was an unreasonable one.

We may mention that the American Courts

take a somewhat more liberal and equitable view of the law on this subject. Our readers will find in the *Repertory* a late American case bearing on it.

The courts have done their duty in pointing out the defects in the law. The mode of remedying the evil is hinted at in the cases in our own courts, and is now brought more prominently before the public. It remains, therefore, for the Legislature to pass such a measure as may be necessary to protect the business public, without, at the same time, imposing any unnecessary restriction on the working of what ought to be, and generally are, great public conveniences.

#### CONSTABLES' FEES.

It has been brought to our notice, that a misconception exists in the minds of many bailiffs or constables, as to the fees they are entitled to charge in cases of distress under warrants received by them to enforce the collection of taxes.

It is said, and we are afraid with truth, that, in some cases, what can scarcely be called by any other name than extortion is practised under colour of these warrants. It is said that some bailiffs, not apparently being possessed with consciences, or else very ignorant of their rights under the statute, have charged as much as ten or even fifteen dollars fees, and it is as well that they should understand their position, particularly in these days of high taxation. We shall, therefore, in our next number, give our readers a report of an interesting case on the subject, for which we have now no space.

#### LAW AND PRACTICE OF DIVISION COURTS.

The professional engagements of the gentleman who supplies us with this treatise have for the last few months been so pressing and engrossing, that he has been unable, for the time, to continue his interesting and instructive remarks. With the beginning of the new year, however, we think we may promise a continuation of the serial.

The Statutes of last Session have not yet made their appearance. Our readers however are better off than the public generally, as we have published the most important acts. It is high time however that they were distributed in full for public use.