

that the entire evidence, when properly considered, cannot reasonably raise a question whether he was not acting beyond the scope of his employment, which should have been submitted to the jury. In instructing the jury that, if they found that the conductor alarmed the plaintiff to such an extent that he jumped off the car, they should find for the plaintiff, although the allegations of the petition were that he was knocked and kicked from the train, we consider that the judge charged upon the evidence before him, and that the variance between *allegata* and *probata* was immaterial. It was not such as could mislead or surprise the adverse party (*McClelland v. Smith*, 3 Tex. 210; *May v. Pollard*, 28 Tex. 677; and *Weibusch v. Taylor*, 64 Tex. 53). Forcing the plaintiff off the train in a wrongful manner was the gravamen of the complaint, and whether it were done with the hand, the foot, or threats of bodily injury, the effect was the same.—*Ohio Legal News*.

**ARE DENTISTS LEGALLY QUALIFIED TO
ADMINISTER ANÆSTHETICS?**

This question has recently been raised, and it is not surprising that there should be some uncertainty as to the answer, inasmuch as there is no direct authority upon the subject. The Dentists Act, 1878, says nothing about it. Section 55 of the Medical Act, 1858, contains a saving clause negating any interference with the 'lawful occupation' of dentists. But neither of these Acts deals with the question of actual practice by unqualified persons—except to bar their right to recover fees—but merely with the unlawful assumption of titles. Was, then, the administration of anæsthetics part of the lawful occupation of dentists? The only statute which appears to touch the point is the Apothecaries Act, 1815, section 20 of which imposed a penalty on persons 'acting or practising' as apothecaries without being registered as such under that Act. There have been certain decisions under this section which have some bearing on this case. The administration of anæsthetics, being for the purpose of rendering the patient insensible to the pain of a surgical operation, is, it is assumed, a medical function analogous to the administration of drugs for alleviating pain generally. The latter has been held to be a work requiring a medical qualification; and, accordingly, by virtue of section 20 of the Apothecaries Act, a person who is a surgeon only is not entitled to perform such a function,