

TRAVELLING BY RAIL.

ment it was stated that *Goff v. Great Northern R. W.*, was a well considered case, and the principles there laid down have never been deviated from. Where a railway company are carrying on business there are certain things which are necessary to be done for the carrying on of the business and the protection of the company, and there are things which if done at all must be done at once, and therefore the company must have some person on the spot to do these things, a person acting with common prudence and common sense, clothed with authority to decide as the exigency arises, what shall be done. *Giles v. Taff Vale R. W.*, 2 E. & B. 822, which was followed by *Goff v. Great Northern Railway*, laid down the rule that if such person, intending to exercise his authority, makes a mistake and does an act which cannot be justified, the company are responsible, because he is their agent. The latter case also decides that where there is a necessity to have some one on the spot to act on any emergency and to determine whether certain things shall or shall not be done, the fact that there is a person on the spot who is acting as if he had express authority, is *prima facie* evidence that he had authority, and the presumption that he had authority must be rebutted by the company. Where one who is clothed with authority to do all that is right and proper in the premises happens to make a mistake, or commits an excess while acting within the scope of his authority, his employers are responsible for it: but where he does an act which the company themselves have no authority to do, the company will not be liable for his acts: *Poulton v. London & S. W. R. W.* L. R. 2 Q. B. 534. In this case it was held that the railway company had power to arrest a person travelling without having paid his own fare, but that they could not apprehend him for not having paid for a horse that he had in the train;

their authority only extending to detain the horse. And so the plaintiff, who had been arrested, got nothing for his false imprisonment: though had the station-master given him into custody under the erroneous supposition that he had not paid the fare for himself as an individual, that being an act which the company were authorised to do, and had empowered their agent to perform for them, they would have been liable. As Keating, J., remarked in *Edwards v. London & N. W. R. W.*, L. R. 5 C. P. 445, the cases decided are cases where a company has made by-laws, and an act of Parliament has given authority to the company's servants to apprehend persons committing offences against the by-laws; and it has been held, that under such circumstances, the servants may be considered to have authority to enforce the by-laws, and to do whatever is necessary for the purpose.

A foreman porter, who in the absence of the station-master is in charge, has no implied authority to give into custody a person whom he suspects is stealing the company's property; and if he arrests an innocent person the company will not be liable: *Edwards v. London, &c.*, *ante*. Though it would appear that if an officer, appointed expressly to watch the company's property, took an innocent person into custody on the charge of stealing, it might be said that the company were liable: *Ibid*, *per* Brett, J.

The clerk at the ticket office of the London and South Western Railroad wished a Mr. Allen to take a French coin (two sous) as change. Mr. A. objected and demanded a British penny; and as the clerk would not take back the sous Mr. A. attempted to put his own hand into the bowl of the till containing coppers, to help himself; for this the clerk gave him into custody on the charge of attempting to rob the till. In an action brought against the company for