

CORRESPONDENCE.

To the Editor of the CANADIAN SPECTATOR:

DEAR SIR,—Speaking of the case of a person threatening damages for being put off a train for presenting a ticket out of date, you say:

"Railway tickets are sold subject to certain regulations and conditions printed upon them, and people would save themselves a great deal of annoyance, loss of time and money in fighting Railway Companies, if they would make themselves acquainted with the cases which have been decided in Canada before they assume an hostile position to the Railway Companies and defy their regulation. A single ticket, for which even the full fare that can be exacted by Act of Parliament has been paid, cannot be used after the time limit has expired; the decision of the Court of Appeals, in the action of Livingstone *versus* The Grand Trunk, settled that question, and the law in regard to return tickets sold at reduced rates has been also emphatically laid down."

The case of Livingstone *vs.* The Grand Trunk Railway was never decided in the Court of Appeals; it was decided in the Superior Court by a jury on a rendering of law by the presiding judge, before whom it again came up in Review on a motion by the defendants for judgment on the award of the jury, the Court of Review at the same time refusing a motion of the plaintiff for a new trial. It did not go before the Court of Appeals, for good and sufficient reasons not explainable in a letter to a public journal. Having referred to this case, which has been since used as a justification for great wrongs, permit me to refer to the question at issue, as stated in the case you cite.

The ticket was an ordinary ticket, bought on a Saturday night at the G. T. R. office, with these words on its face: "Good for continuous trip within three days—Montreal to Toronto." The plaintiff left the train on Sunday morning at Kingston, and on attempting to continue his journey the following Wednesday was ejected at a flag station west of that city. The defendants admitted all the facts, and they also admitted that the ticket had not been travelled upon west of Kingston, and they admitted full payment to the limit allowed by their charter. The law as given to the jury by the Hon. Judge was, that the plaintiff was bound to commence his journey within the three days and continue his journey by the same train that he commenced from Montreal to Toronto, and that in the event of his leaving the train at any station the ticket ceased to be good; then pointedly putting this relic of stage law to the jury in the words: "Unless you can find the plaintiff a born fool, and could not see what was on the face of the ticket, you will find him the wrong-doer and not entitled to damages." The jury, acting on the judge's command in this his rendering of law, gave a verdict accordingly for the defendants. You will notice from the law thus laid down that, if a passenger buying a ticket, say from Montreal to Detroit or Chicago, for any cause whatever has to leave his train at the first or other stopping place, even though that be the first day of the limit time to run, his right to travel on that ticket by any following train is voided. Not only has this law been spoken from the Bench, but it has been enforced several times. Once while I was on a G.W. R. train a poor man who had that day bought a ticket to a western city from Toronto with the word "continuous" and "five days" limit thereon, ventured to stop off at an intermediate station between trains, and on entering a car of a regular train following the one on which he had commenced his journey, he was ejected, the conductor holding the ticket to be void; the man being subjected to an indignity. At the time this incident happened, a prominent western man emphasized the act as a shame, when the conductor exhibited his instructions, excusing him, but not reflecting credit on the makers of such rules, even though they were sustained by this law, nor should such a law, even if it had the authority of the Court of Appeals be considered good or sufficient excuse to void the question of lost time and money to vindicate one's right to value for value. We all have our duties to perform, and in doing them well we perform service not only to ourselves, but to the public also, while a sycophantic press or pusillanimous people must surely encourage the will-laws of corporations that often lead, without even intending it, to such acts of wrong.

The opinion of a judge in judging a case becomes a law, but it is only an opinion still, effective for weal or woe by acquiescence, and too often, especially in our Lower Canada Courts, the judgements are fettered by demurrers and and other objections of law that narrow the issues and exclude evidence necessary to a full understanding, hence much seeming injustice is inflicted on clients, and decisions given at variance with truth and justice.

According to the terms of the judgement in my case the terms on the face of the ticket were a contract by which I was bound; now this very point has been otherwise settled in England and in the United States; the highest Court in Great Britain holding that conditions on the face of a ticket are no part of a contract unless the purchaser's attention be called to them at the time of purchase, and in my case the defendant admitted this was not done. The G. T. R. acknowledges the existence of this law in the United States by selling in Chicago, and I presume elsewhere, "continuous" trip tickets at much less than their other tickets, but they require the purchasers to sign the conditions in consideration of the reduced price; the doing of this most certainly constitutes a special contract, but in my case I deny that the ticket received varied in any way the contract they were under by virtue of their charter obliging them on the one side to carry, and the other side obliging me to pay the sum of $3\frac{1}{2}$ cent per mile as was done for which the ticket was my voucher. The three days on the face of the ticket might have been

pleaded as an excuse for a three days' detention between this city and Toronto, and until the last few years opportunities might have been availed of for such actions if the travelling public had been litigiously inclined, for if all their regulations are to be held to be laws and conditions then their Time Tables would be sore instruments in the hands of the often damaged travellers who have passed many an uncomfortable hour waiting trains, under circumstances of which I will relate one in my own case, of driving on a cold night from Kingston to its distant station to catch the night express there, walking thereafter about that station for hours, unable to get the station agent shook up to learn where the train was, until exhausted with fatigue, and nearly perished with cold, I was gratified by the arrival of the train, two hours after its published time only to be carried to a station further west; and there I was laid up with pleurisy in consequence of the G. T. R. not being on time per contract in their Time Table, which bind railways in England and should make them liable in damages here. On another occasion soon after this law about continuous trips was rendered, I bought a ticket from Sherbrooke to Kingsey "Good for continuous trip on this day only." On reaching Richmond the train was cancelled without notice or further excuse, the Agent at Richmond saying he could do nothing until two o'clock next day, but the ticket expired that day; still more, it was a continuous ticket. This I intended as a test case and so instructed Counsel, but he appeared to have mislaid this ticket until my interest ceased by the cooling influence of time.

John Livingstone.

To the Editor of the CANADIAN SPECTATOR.

In your paper of the 23rd October is an article, signed by Mr. King, calling upon me for a reply. I wrote to him, personally, but have since felt that it would be more courteous to him and to you to publish the explanation asked for in your columns:—

27 GRENVILLE STREET, Toronto, Oct. 30th, 1880.

MY DEAR MR. KING,—I have just come home, after having been away in England and the Lower Provinces all the summer, and your article in the SPECTATOR of the 23rd has been shown to me.

I am not given to writing in newspapers, but am glad to answer you personally as you have interested yourself so long and so kindly on behalf of Canadian art and artists.

I have also seen this morning in the last SPECTATOR a letter signed "Art." What is said in this letter is quite true and sensible, but it is an aspect of the matter which I would rather wish to remedy than to call public attention to.

To produce such a work as "Picturesque Canada" should, and must be, is difficult anywhere. To do it in Canada is especially difficult, as the kind of drawing required is one in which our artists have had no experience and, until now, no encouragement to acquire the necessary technical knowledge. Drawing for illustration and engraving is an art in itself, and cannot be mastered without much hard study and practice—taking time, which men struggling for a livelihood, can ill afford.

I trust that the opening offered by the publication of "Picturesque Canada" will encourage those whose gifts lie in this direction to turn their attention more to black and white drawing.

Our trial of drawings by Canadian artists so far shows that those most prominent as colourists do not necessarily succeed in black and white, while others less conspicuous as painters, show more aptitude for this kind of work. The same thing may be noted in England and abroad where illustration is a specialty with its own particular eminent men. I think we have done all that was possible in the few months that have elapsed since this project took practical form. We have sketches from Harris, Vice-President of the Ontario Society of Artists; Edson, Raphael, Peiré, Creswell and Watson, (all members of the Royal Canadian Academy of Arts,) who have been drawing for the book, and a number of finished drawings have already been received and accepted by the publishers, who have from the first given the preference to Canadian artists, and will continue to use their work to the utmost extent compatible with the production of a first-class publication. The work *must* be good to keep faith with the public and the subscribers, and we have to satisfy not only the general public, but also the critical and cultivated few who properly influence public opinion.

I can answer for it that every Canadian artist who can and will make such drawings as are suitable and can be used without lowering its standard, will have a share in the work.

As to the engraving—we have found and engaged one good man, resident in Canada; another, an Englishman, who left Canada for want of employment, has also been engaged; some half-dozen trial blocks have been cut in England, and as many in the United States, and in the light of the experience thus gained arrangements are being made which we expect to result in other first-rate landscape engravers taking up their abode in Canada. All we ask our friends is patience, forbearance and such aid of kindly sympathy and encouragement as we have already received.

Our answer to the people of Canada will be the book itself, and I have good reason to believe that the answer will be satisfactory.

Yours, &c.,

L. R. O'Brien.

Owing to pressure on our columns the Chess Column is unavoidably held over until next week.