

his general orders. *The Queen v. Stephens*, Law Rep. 1 Q. B. 702.

*Liability of Commissioners for a public purpose.*—By an act of parliament, drainage commissioners were to make and maintain a cut and sluice; the sluice burst, owing to the negligence of the servants of the commissioners, and damage having ensued to the plaintiff's land, he brought an action against the commissioners, in the name of their clerk:—*Held*, on the authority of the *Mersey Docks* cases (ante, p. 173), that the commissioners were not exempt from liability by reason of their being commissioners for a public purpose; and that the duty being imposed upon them of maintaining the sluice, they were liable for the damage caused by the negligent performance of that duty by their servants. *Coe v. Wise*, Law Rep. 1 Q. B. 711.

#### COMMON PLEAS.

*Carriers—Delivery within reasonable time*  
—*Delay caused by third persons.*—A common carrier of goods is not, in the absence of a special contract, bound to carry within any given time, but only within a time which is reasonable, looking at all the circumstances of the case; and he is not responsible for the consequences of delay arising from causes beyond his control. The defendants, a railway company, were prevented, by an unavoidable obstruction on their line, from carrying the plaintiff's goods within the usual (a reasonable) time. The obstruction was caused by an accident resulting solely from the negligence of another company who had, under an agreement with the defendants, sanctioned by act of parliament, running powers over their line:—*Held*, that the defendants were not liable to the plaintiff for damage to his goods caused by the delay.

This decision reversed the judgment of the Lincolnshire County Court, which held the defendants liable. The action was brought to recover damages sustained by the plaintiff in consequence of a delay in the delivery of three hampers of poultry, which he had sent by the defendants' railway for the early London market. There was no special contract made by the defendants to deliver the goods in time for any particular market. The delay was wholly

occasioned by an accident which occurred on the defendants' line between Hitchin and London, to a train of the Midland Railway Company, who have running powers over that portion of the defendants' line. The accident resulted solely from the negligence of the servants of the Midland Railway Company. The County Court judge decided in favor of the plaintiff, on the ground that as the Midland Railway Company used the said railway by the permission of the defendants, the latter were responsible for delay caused by the negligence of the former company, and, therefore, that the delivery in this case was not within a reasonable time. On appeal, it was urged on behalf of the plaintiff that, if he could not recover in this action, he had no remedy, as there was no privity between the Midland Railway Company and him.

ERLE, C. J., said: "I am of opinion that our judgment should be for the defendants. I think a common carrier's duty to deliver safely has nothing to do with the time of delivery. That is a matter of contract, and when, as in the present case, there is no express contract, there is an implied contract to deliver within a reasonable time, and that I take to mean a time within which the carrier can deliver, using all reasonable exertions. The ground upon which the decision went against the defendants was that, as the Midland Railway Company used the Great Northern line by the defendants' permission, the defendants were responsible for a delay caused by the Midland Company on their Great Northern line. But in so deciding I think the County Court judge took an erroneous view of the relations between the two companies. The legislature have declared by many acts that it is for the public advantage that railway companies should have running powers over each other's lines, and it has specially declared it to be so in the case of the present agreement. The Midland Railway Company, therefore, were not merely using the line by the defendants' permission, but were exercising a statutory right, and the defendants were not responsible for their acts." *Taylor v. The Great Northern Railway Co.*, Law Rep. 1 C. P. 385.

*Rules of Descent—Attainder—Civil Death.*