

THE WILLS ACT, 1873—TRAVELLING BY RAIL.

by the Act, made separate property, including her real estate. It is remarkable, however, that the Act contains no provision settling a married woman's general personal property to her separate use.

It will thus appear that the omission from the new statute of the clause contained in the English Act, disabling married women, is of less importance than would at first appear; but it is still important, inasmuch as a married woman is empowered by the Act to dispose of the legal estate in her lands, a valuable power, but one which the Courts of Equity could not, in view of the express wording of the old statute, venture to give to her; and it is also important, inasmuch as a married woman will acquire by the Act a power of disposing, by will, of her *general personal property* not settled to her separate use.

For the construction of the former Act, see the cases of *Royal Canadian Bank v. Mitchell*, 14 Grant, 412; *Chamberlain v. McDonald*, 14 Grant, 447; *Wright v. Garden*, 28 U. C. Q., B. 609; and the recent case of *Mitchell v. Weir*, 19 Grant, 568; also *Davison v. Sage*, not yet reported, which is the only direct authority on the construction of sect. 16.

(To be Continued.)

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A railway company is liable to an action for false imprisonment, if that imprisonment be committed by its authority; and such authority need not be under seal. But the plaintiff must give evidence justifying the jury in finding that the persons actually imprisoning him, or some of them, had authority from the company to do so. "In the ordinary course of affairs, a company must decide whether they will submit to what they believe to be an imposition, or, for their protection, use the summary power (given to them in many cases) of

arresting offenders; and as, from the nature of the case, the decision whether a particular person shall be arrested or not must be made without delay, and as the case may be one of not infrequent occurrence, we think it is a reasonable inference that, in the conduct of their business, the company have on the spot officers with authority, without the delay attending on convening the directors, of deciding whether the servants of the company shall or shall not, on the company's behalf, apprehend a person accused of travelling without paying. We think that the company would have a right to blame those officers if they did not on their behalf apprehend the person, if it seemed a fit case: and if so, the company must be answerable if, in the exercise of their discretion, these officers on their behalf apprehend an innocent person." *Blackburn, J.: Goff v. Northern R. W.*, 3. E. & E. 672.

In *Moore v. Metropolitan R. W.*, L. R. 8 Q. B. 36,—the latest case on the subject, the plaintiff had a return ticket from M. to N., and getting out at E., a station short of M., refused to pay an extra 2d. demanded: he thereupon was arrested by the inspector of the station, (the company being empowered to arrest persons committing frauds by the non-payment of fare,) and the charge being dismissed by the magistrate, the plaintiff brought an action of trespass and false imprisonment. The Court held that as the inspector was the defendant's representative at E., it must be presumed, in the absence of evidence to the contrary, that he had authority from the defendants to arrest persons supposed to be guilty of defrauding the company, and that the defendants were liable for his mistake. If the plaintiff had committed the offence charged, that would have been a defence on the merits, as the company were liable on the ground that their servant made a mistake. In giving judg-