

SELECTIONS.

maker of a note deposited goods with the holder to be sold to pay it; it was held that a sale several years afterwards was not within a reasonable time.* In *Doe v. Smith*, it was held a week or a fortnight was a reasonable time, in which to terminate a particular lease and take possession, but a year was not.† The court must decide whether the purchaser of a crate of ware has furnished the vendor with a list of the broken articles in a reasonable time.‡ In legal provocation, what is time "to cool," from the heat of frenzied passion, between the provocation and the inflicting of the mortal blow in return, being a question of law, must be decided by the court, § and so is the question whether a prisoner was tried in a reasonable time after arrest. || — *Central Law Journal*.

STREET CAR LAW.

In *Germantown Pass. Ry. Co. v. Brophy*, Pennsylvania Supreme Court, January 14, 1884, 14 W. N. Cas., 213, it was held that where a person sits in a street car with his arm resting on a window sill wholly within the car, and by a sudden collision his arm is thrown out and broken, his occupying such a position is not contributory negligence in law. The court said: "The company has two railway tracks, separated by so narrow a space on a curve, that when its cars were passing in different directions they came in collision, whereby the defendant in error, a passenger in one of the cars, was injured. The main contention is whether he was guilty of contributory negligence in producing the injury to his arm. . . . The learned judge charged that if he sat with his arm out of window when the collision occurred, he was guilty of negligence, and could not recover. Not satisfied with this, the

counsel for the company requested the court to charge if the defendant in error placed his arm on the window sill and by a jolt of the car it was thrown out of the window and he was injured, he was guilty of contributory negligence, and could not recover. The court refused to so charge, but left it to the jury to find whether if he was so riding it was negligence on his part which contributed to the injury. The company has no just cause of complaint of this answer. It would have been clear error if the court had instructed the jury that occupying such a position was negligence in law. Resting his arm upon the window-sill wholly within the car, created no legal presumption of negligence. If it constituted negligence, it was a fact to be found by the jury, to whom it was submitted, and it was not to be so declared by the court. In the absence of a collision with an external object his arm was in no danger of injury. He was under no legal obligation to assume or anticipate that the company would run another car against the one in which he was sitting. The window-sill in a railway car is substantially the top of the back of the seat. In cannot be declared negligence in law for a passenger to so rest his arm, and the jury has found it is not negligence in fact." — *Albany Law Journal*.

* *Porter v. Blood*, 5 Pick. 104.

† 2 T. R. 436.

‡ *Atwood v. Clark*, 2 Greenl. 249. See *Murphy v. Smith*, 1 Hawks. 41; *Kingsley v. Wallis*, *supra*.

§ *State v. Sizemon*, 7 Jones Law (N. C.), 208.

|| *Cochran v. Toher*, 14 Minn. 389.