

ing about the streets" was within the words of the statute "loitering in the streets" and was not calculated to mislead defendant.

W. B. A. Ritchie, K.C., in support of appeal. Mellish, K.C., and L. A. Lovett, contra.

Full Court.]

McQUARRIE v. DUGGAN.

[Feb. 5.]

*Cabman—Lien on passenger's baggage for fare—Master and servant—Right of master to intervene to recover servant's property—Jury—Unreasonable verdict set aside—Opinion of trial judge.*

A cabman who undertakes to drive a passenger to his destination is justified in detaining a portion of the passenger's baggage as a means of enforcing payment of his legal fare, but he has no other right than this and where plaintiff having been tendered the legal fare demanded an equal amount for baggage carried which the passenger, defendant's servant, was unable at the moment to pay, but which plaintiff was told would be paid on the return of defendant, who was expected to arrive immediately, and plaintiff was proceeding to carry away a portion of the baggage, and defendant arriving grasped plaintiff's horse by the head and stopped the carriage.

*Held*, GRAHAM, E.J., dissenting as to facts, that defendant was justified in taking the action he did to regain possession of his servant's property.

Where on the trial of an action claiming damages for assault the jury declined to accept the directions of the trial judge, and disregarding the evidence of defendant and two credible witnesses, by whom he was supported, contradicting plaintiff's statements as to any personal assault, and accepting the evidence of plaintiff, who appeared to have been under the influence of intoxicants at the time, gave their verdict in plaintiff's favour.

*Held*, that there must be a new trial.

Also, that in such a case the opinion of the trial judge, who has all the parties before him, and is in a position to estimate the credit to be given to them, is of peculiar value.

J. J. Ritchie, K.C., in support of appeal. W. B. A. Ritchie, K.C., contra.