

TRAVELLING BY RAIL.

ern R. W. Co. App. v. Shepherd Resp., L.R. 8 Ex. 30, it was decided that if a passenger has merchandise among his personal luggage, or so packed that the carrier has no notice that it is merchandise, the carrier is not responsible for its loss. But if merchandise is carried openly, or so packed that its nature is obvious and the carrier does not object to it, he will be liable.

The question as to what is to be considered personal luggage is one which is often pressed upon the consideration of a contemplative traveller, when on entering a crowded train he finds every seat occupied if not with mortals like himself, still with bundles and band-boxes, nursery paraphernalia and the produce of the kitchen or the cook-shops,—it is also a question which has much agitated Courts of Justice, and a learned Canadian Judge has remarked, that “the authorities and references shew it is much easier to say what is not personal or ordinary luggage, than it is to decide what it is which a carrier is bound, or which it is usual for him, to carry along with his passengers.”

Cockburn C. J., in *Macrow v. Great Western R. W.*, L.R. 6 Q.B. 623, held the rule to be “that whatsoever the passenger takes with him for his own personal use or convenience, according to the habits or wants of the particular class to which he belongs, either with reference to the immediate necessities or to the ultimate purpose of the journey, must be considered as personal luggage. This would include, not only all articles of apparel, whether for use or ornament, but also the gun case or the fishing apparatus of the sportsman, the case of the artist on a sketching tour, or the books of the student, and other articles of analogous character the use of which is personal to the traveller and the taking of which has arisen from the fact of his journey.”

The cases have held that the ordinary

luggage of a passenger comprises, clothing and such articles as a traveller usually carries with him for his personal convenience, perhaps even a small present for some admired friend: *Great Northern R. W. v. Shepherd*, 8 Ex. 38, also not only brushes, razors, pen and ink and the like, but books for instruction or amusement by the way, a gun, or the implements of the followers of the gentle art: *Hawkins v. Hoffman C. Hill*, N. Y. Rep. 589; articles of jewellery: *Brooke v. Pickwick*, 4 Bing. 218; carpenters' tools to a reasonable amount, if the traveller is of that trade and carries the articles with his clothes: *Porter v. Hildebrand*, T. Harris Henn. Rep. 129; even a pocket pistol and a pair of duelling pistols have been held to be ordinary luggage: *Woods v. Devon*, 13 Ill. 746; so, as a student going to college, manuscripts which were necessary to the prosecution of his studies: *Hopkins v. Westcott*, 7 Am. Law Rep. M. S. 534. In the late case of *Binty v. Grand Trunk Railway Co.*, 32 U.C. Q. B. 66), our Court of Queen's Bench held that a rifle, a revolver, two gold chains, a locket, two gold rings and a silver pencil-case were ordinary personal luggage, for the loss of which the defendants were liable; Wilson, J., also, held that a concertina lost in the same box as the other things should be considered as an article of amusement or pleasure which it is permissible to carry as part of one's luggage, there being no reason why one should not be indulged with a flute or fiddle, or even a concertina, as well as with a gun, fishing-rod or book: but the majority of the Court held otherwise.

Parke B., says personal luggage is not merchandise, nor are materials bought for the purpose of being manufactured and sold at a profit: *Great Western Railway v. Shepherd*, 8 Ex. 30. Cockburn, C. J., held the same in *Macrow v. Great Western Railway Co.* Nor are samples of merchandize carried by commercial trav-