

and asked if it would be safe to leave it with him. It is obvious, or at all events it was obvious to the County Court judge, that the way to treat the matter is, as though she had said: "My husband is coming to meet me, we are going by the train, I have brought the luggage here and I am going to meet him at this station and take my ticket—will the thing be safe?" Then she goes and meets her husband at the station, at the ticket office where her husband has taken a ticket for her, and when they come back, the bag is gone. The evidence is that she was away for ten minutes. We must take into account, no doubt, that when she went to the station, it was forty minutes before the train was advertised to start, but the evidence is open to this construction—that the train actually came up to the platform ten minutes after she got there.

The question arises, what are the liabilities of the company with regard to that bag? It is said that the porter had possession of it beyond the scope of his authority; and that therefore if anybody is liable for its loss it is the porter and not the railway company. It seems to me, that with regard to the public, the scope of a porter's authority is to be measured by what the company deliberately allow their porters to do, and they cannot say that a porter is acting beyond the scope of his authority with regard to the public, by reason of some secret orders which they have given to him. That is the first proposition I put.

Now what do porters do, when you arrive at a station? The railway company, as we know, allow their porters to take the luggage on to the platform. That is the first step. When it is on the platform, or any part of the platform in some railway stations or at a particular part of the platform in other railway stations, tell them where you are going, and your luggage is to go into the van, it is labelled. But all that time, before it is labelled, and after and until it is put into the van, it is generally in the custody of a porter, and almost always of the porter who first took it.

Now with regard to that labelled property, it seems to me that it is within the scope of the porter's authority to take that luggage on

behalf of the railway company; and from the moment it gets into the possession of a porter it is in the possession of the railway company for the purposes of carriage unless something intervenes to alter that state of things. Until that something intervenes, that luggage is in their custody for the purpose of conveyance; they are common carriers of it, and liable as common carriers.

Now comes the case of luggage which is not to go into the van. Here again it must be known to everybody that the porters take possession of such luggage at the same time that they take possession of the other, and they take it on to the platform or to the carriage. During the whole of that time it is in process of conveyance to the place to which the passenger is going, and is in possession of a servant of the railway company. I cannot see any distinction during that time between the luggage which is to be labelled, and the luggage which is not, or between the luggage which is labelled, and the luggage which is not, up to the time when they arrive at the train. Now when luggage arrives at the train, if you no longer leave it to the railway company to put it where they please in the train, but insist that it shall be put into a carriage in which you are going, you alter the state of things; you take it partly into your own control, but not absolutely, because as pointed out in some of the cases, when the company are carrying you, they are carrying your box or parcel as well. Under those circumstances, they are not liable as common carriers, although the thing is in process of conveyance, because you have taken it partly into your own control, but they are liable as bailees, as people who have undertaken to carry you and your luggage, and they are liable only for negligence.

When you arrive at the other end, it is equally well known that the companies hold out to the public that their porters may take luggage from the carriage to the entrance of the railway, and there put it into a cab. If they were common carriers at the beginning of the journey, that is from the entrance of the station to the carriage, I cannot see but that at the end of the journey, the thing being still in process of convey-