dants' afternoon accommodation train at the Suspension Bridge, which ran only as far as London, but he left it at St. Catharines, an intermediate station, and defendants refused to let him go from thence by the night express. *Held*, that they were justified in so doing: that the defendants' contract bound them to convey the plaintiff in one continuous journey from the Suspension Bridge to Detroit, giving him the option of taking any passenger train from the point of commencement, and that if that train did not go the whole distance, to be conveyed the residue in some other train,—the whole journey to be completed in twenty days: but that it did not give a right to stop at any or every intermediate station. *Quære*, whether if he had gone on to London by the accommodation train, he would have been bound to take the next through train from thence: (*Craig* v. *The Great Western Railway Company*, 24 U. C. Q. B. 504.)

"TICKET GOOD FOR THIS DAY ONLY"—TIME TABLES.—The declaration stated that defendants contracted to carry the plaintiff as a passenger from G. (Gananoque) to T. (Toronto), but wrongfully expelled him from the cars. Defendants pleaded, that on the 8th of December, 1864, they sold to plaintiff at G. a ticket from thence to T., "good for this day only:" that he thereupon took the train at G., which proceeded to T. by a continuous journey, but left it without defendants' consent at C. (Colborne), and on the 10th of December entered another of their trains going to T., by which they refused to carry him, which was the grievance complained of. To this the plaintiff replied, that before his purchase of the ticket on the 8th of December, defendants had publicly advertised, by their time table, that a passenger train would leave G. at 3.5 p.m., and arrive in Toronto at midnight: that he purchased his ticket before the arrival of the train at G. on that day, on its way to T., on the faith of such representation; but the train did not leave G. until 6 p.m., and defendants well knew that it would not, and it did not, arrive at T. until the morning of the 9th: that on its arrival at C. the plaintiff, finding the train could not reach T. until the 9th, left it, and defendants waived the terms of their ticket, and the plaintiff on the 10th claimed to go on by the morning train passing C. for T. on this ticket, but was prevented. *Held*, on demurrer; 1st. That the plea, without reference to the replication, was a good defence, for the ticket was a contract by defendants to convey the plaintiff from G. to T. in one *continuous* journey, to commence on the day of issuing it. 2nd. That the replication was bad, for even if the time table could be construed as incorporating a condition as to time into the contract, yet as the contract was partially executed for the plaintiff's benefit for his conveyance to C., the breach could only entitle him to compensation in damages. 3rd. That the time table could not be treated as part of the contract, but amounted to a representation only; and in that view the plaintiff should have averred that he bought his ticket on the faith of such representation before the time specified for the train to leave G., not merely before the arrival of the train there, for if after the time specified, he knew as well as defendants that the time table had been departed from. *Quære*, whether the plaintiff, by leaving the train at C., and thus making it impossible for defendants to perform the substantial part of their contract, by conveying him in one continuous journey to T., had not forfeited all right under it: (*Briggs* v. *The Grand Trunk Railwag Co.*, 24 U. C. Q. B. 510.)

CONTRACT—DEFECT IN GOODS—FRAUD.—The manufacturer of an article to order is not guilty of fraud in not pointing out a patent defect, which might have been discovered by the purchaser, had he examined it with care. What would amount to fraud in such a case? (*Horsfall* v. *Thomas*, 1 Hurl. & Colt. 90.)

VICIOUS HORSE—LIABILITY OF OWNER.—The owner of a horse that had strayed along a public road and had kicked a person is not liable on that account, unless it be proved that the owner knew that the horse was vicious: (*Cox* v. *Burbidge*, 9 W. R. 435.)

JURY—INFLUENCE.—A jury in considering the amount of damages should not allow the question of costs to influence them. New trial granted on that account: (*Poole* v. *Whitcomb*, 12 C. B. N. S. 770.)

## UPPER CANADA REPORTS.

### QUEEN'S BENCH.

(*Reported by* C. ROBINSON, Esq., Q.C., *Reporter to the Court.*)

#### DICKSON V. CRABB.

*Action against J. P.—C. S. C. ch.* 103, *sec.* 67—*C. S. U. C. ch.* 126

Defendant, a Justice of the Peace, issued his warrant, under Consol. Stat. C. ch. 103, sec. 67, to commit the plaintiff for nonpayment of the costs of an appeal to the Quarter Sessions, unless such sum and all costs of the distress and commitment and conveying the plaintiff to gaol should be sooner paid; but he omitted to state in the warrant the amount of the costs of the distress and commitment. The plaintiff having been committed on this warrant, sued defendant for false imprisonment.

*Held*, that though it was the duty of the Justice to ascertain and state such amount, yet the omission to do so, though it might have occasioned the plaintiff's discharge, did not