

the goods are deposited with him expressly for safe custody, in which case he may demand that they may be placed in a sealed box or other receptacle; or (3) he refuses to receive the goods for safe custody, or by his default the guest is unable so to deposit them; or (4) he has omitted to exhibit in the hall or entrance of the inn a printed copy of that part of the Act which limits his liability as above mentioned.

By the common law, a common carrier was liable for loss or injury to the goods carried by him, arising from any cause except the act of God or the king's enemies, or some defect in the goods carried; unless he limited his liability by a contract made for that purpose with his customer. A notice limiting the carrier's liability, put up in his office, and shown to have come to the customer's knowledge, was formerly held to constitute such a contract; but the Carriers' Act, 11 Geo. IV. and 1 Wm. IV. c. 68, provides that no such notice shall have any effect. The common law liability of carriers was materially altered, however, by the Act last mentioned. Under this Act, a carrier is not liable for loss or damage to certain articles specified in the Act, when the value exceeds £5, unless the value be declared at the time when the goods are delivered to the carrier, and an increased charge, notified in the carrier's office, is accepted by him. The Act, however, does not protect the carrier when he does not properly notify or demand the increased charge; or when the loss of, or damage to, the goods arises from his own misfeasance, or the felonious act of his servant.

Q.—10. Is there any distinction between malice in fact and malice in law? How is a wrong intent, when an essential element in a crime, to be proved? A prisoner is indicted for "setting fire to a mill, with intent to injure the occupier." Is it requisite for the prosecution to give any evidence other than the mere fact of setting fire to it, in order to convict? State your reasons.

A.—Malice in fact means a design or wish to do harm to a person. Malice in law means an intention to do an act which is forbidden by law; and the term is sometimes used in a wider sense, as including culpable negligence resulting in an illegal act or omission.

Where an act done is apparently a criminal offence, the wrongful intention may be inferred;

for the law presumes that every man must contemplate the necessary consequences of his own act. But where an act is not apparently a crime, but may be so if done with a wrongful intent, evidence must be given of facts showing such intent, or from which it may be inferred. In the case put in the question, it would not be necessary to give any evidence to prove any fact other than setting fire to the mill; because injury to the occupier of the mill would be a necessary or probable consequence of the act (*R. v. Farrington*, Russ. & Ry. 207; Broom, C. L., Book 4, ch. 1).

Q.—11. Are the directors of a railway company liable for any and what criminal offence, if, owing to the fact of the permanent way being left, through negligence, out of repair, an accident happens causing death? Give your reasons.

A.—If it could be shown that the want of repair was the necessary consequence of the negligence of the directors, they would be guilty of manslaughter; but they would not be subject to any criminal liability if the death were caused through the negligence of workmen or others in the employment of the company.

Q.—12. Describe the proceedings at the trial of a prisoner on an indictment, mentioning any rules of evidence specially applicable in criminal cases.

A.—The proceedings commence with the arraignment of the prisoner. Assuming that on arraignment he pleads not guilty, the petty jury are thereupon sworn (subject to the prisoner's right of challenge), and he is given in charge to them. The counsel for the prosecution then opens his case to the jury, stating the principal facts to be proved, and calls and examines his witnesses, who may be cross-examined by the prisoner's counsel, and re-examined by counsel for the prosecution, on facts referred to in the cross-examination. On the close of the case for the prosecution, if the prisoner has witnesses, his counsel opens his case to the jury, calls and examines his witnesses, who may be cross-examined and re-examined, and then sums up his evidence; and the counsel for the prosecution replies on the whole case. But if no witnesses are called by the prisoner, the counsel for the prosecution addresses the jury for the second time at the