

TRAVELLING BY RAIL.

authorized by them to do all legal acts for the proper management of the business of collecting the tickets and the fares of the passengers, preserving order and regulating the running of the train; and authorised by them, as well as by act of parliament, to remove persons from the cars who misconduct themselves or have not paid their fare. This being within the scope of his authority, if, in assuming to carry out what he is legally empowered to do, and in relation to which he must be considered the general agent of the company, he forcibly removes a passenger from the cars who has paid his fare, without any excuse for so doing, he will be liable for the assault, and the doctrine of *respondet superior* applies to his employers, the company: *Williamson v. Grand Trunk R. W. Co.*, 17 U. C. C. P. 615. But if during the course of such removal, and while leaving the carriage, the aggrieved party should slip, fall, and be injured, the company will not be liable to him for such injuries so sustained by him; for the removal was not the proximate, but only the remote cause of the accident, and damages, if awarded, would be too remote: (*Ibid*). If one is about to be thus unceremoniously treated it will be wise and prudent quickly to gather together all his surroundings and belongings, and quietly succumb to the powers that be; for *Glover v. London & South Western R. W.*, L. R. 3 Q. B. 25, decides that special damages cannot be recovered, as a usual thing, for articles left behind in the train on such occasions. There a traveller was put out of the cars without unnecessary violence, and left on the seat he had been occupying a pair of glasses; but as it was not shewn that the company's servants got possession of them, it was held that he could not recover their value. Cockburn, C. J., in giving judgment remarked, that the case would be very different in his judgment, if the glasses had

fallen from the plaintiff's person as the immediate result of the violence offered to him; or if a man had personal property under his care and was dragged away under circumstances which rendered it impossible for him to take it with him and so it was lost. He (the plaintiff) had only himself to blame that the glasses were left behind him in the carriage: and the loss therefore was not the necessary consequence of the defendants' acts, but only due to the plaintiff's own negligence or carelessness: and that this head of damages was too remote for the plaintiff to recover.

The courts do not like the idea of mulcting railway companies in heavy damages for the sins of commission of their servants and conductors. Where a verdict of £50 was given against the Great Western Railway, because their conductor put the plaintiff off the train, though the inconvenience to him was trifling and the conductor had acted *bona fide* under an impression that the plaintiff had not paid his fare, and without using harshness or violence, a new trial was granted on the ground of excessive damages, and the Chief Justice stigmatised the verdict as "outrageous." But there the jurors of our Lady the Queen and my lord differed, and so on the second trial they gave the plaintiff £45 and against that the defendants did not attempt to move: *Huntsman v. Great Western R. W.*, 20 U. C. Q. B. 24. And in *Davis* against the same defendants (20 U. C. Q. B. 27,) the Court spoke regretfully of the exorbitant amount of damages (£50) in a case where the defendants were not otherwise concerned than through the act of their conductor, and where the conductor only did what he thought his duty required of him.

But after a second verdict the Court will not grant a new trial, even although it considers the damages excessive. This was held in *Curtis v. Grand Trunk R.*