

U. S. Rep.]

PITTSBURG R. W. Co., ETC., v. AAZEN—REVIEWS.

of \$1,100.55, and for this amount was the verdict and judgment in favor of Hazen, from which the railway company appeal.

As an excuse for this delay beyond the usual period of such transit, the defendant at the trial below sought to prove that the sole cause of the delay was the obstruction of the passage of trains in the neighborhood of Lautsburg, resulting from the irresistible violence of a large number of lawless men, acting in combination with brakemen, who up to that time had been employed by the railway company. That the brakemen refused to work, and were discharged, and other brakemen promptly employed; but the moving of trains was prevented by the threats and violence of a mob. This evidence was objected to by the plaintiff, and excluded by the court. This, we think, was error. It is doubtless the law that railway companies cannot claim immunity from damages for injuries resulting in such cases, from the misconduct of their employees, whether such misconduct be wilful or merely negligent. If employees of a common carrier suddenly refuse to work, and the carrier fails promptly to supply their places with other employees, and injury results from the delay, the carrier is responsible; such delay results from the fault of the employees. The evidence offered in this case, however, tends to prove that the delay was not the result of a want of suitable employees to conduct the trains, for the places of the "strikers" were (according to the proof offered) promptly supplied by others. The proof offered tends to show that the delay was caused by the lawless and irresistible violence of the discharged brakemen and others acting in combination with them. These men, at the time of the lawlessness, were no longer the employees of the company. The case supposed is not distinguishable, in principle, from the assault of a mob of strangers. All the testimony on this subject should have been submitted to the jury for their determination of the question, whether, under all the circumstances, the period of transit was unnecessarily long.

To the delay resulting from the refusal of the employees of the company to do duty, the company is undoubtedly responsible; for delay resulting solely from the lawless violence of men, not in the employment of the company, the company is not responsible, even though the men whose violence caused the delay had but a short time before been employed by the company.

Where employees suddenly refuse to work and are discharged, and delay results from the

failure of the carrier to supply promptly their places, such delay is attributed to the misconduct of the employees in refusing to do their duty, and the misconduct in such case is justly considered the proximate cause of the delay, but when the places of the recusant employees are promptly supplied by others, competent men, and the "strikers" then prevent the new employees from doing duty, by lawless and irresistible violence, the delay resulting solely from this cause is not attributable to the misconduct of employees but arises from the misconduct of persons for whose acts the carrier is in no manner responsible.

The judgment is therefore reversed, and the cause remanded for a new trial.

WALKER, CRAIG, & SCHOLFIELD, JJ.

We dissent from the reasoning and conclusion in the foregoing opinion.—*Chicago Legal News.*

REVIEWS.

LAND TRANSFER MADE EASY. PRACTICAL SUGGESTIONS, WITH CONCISE PRECEDENTS. By E. H. Barlee, Esq., Solicitor of the Supreme Court, England. London: Waterlow and Sons (Limited).

The author has thrown together in this pamphlet several practical suggestions for improving the system relative to the transfer of land. In England the trouble and outlay to which vendors and purchasers are exposed are very great, and the author suggests that, without uprooting the present system in England, there might be an *ad valorem* scale, in some measure assimilating land transfers to those of stocks and shares. He also proposes the establishment of deed registries in England, in the capital towns of the different counties. Reference is made to registries of this kind in other countries, where they undoubtedly work well. The pamphlet is deserving of notice in view of the attention which the more easy transfer of land is attracting in England and her colonies.