

of his damages, reasonable compensation for the indignity put upon him by the company through the default of its servant. But he can add nothing to his claim by remaining in the car until forcibly ejected, for the rule under which he is ejected, being reasonable, is a complete protection to the company and its servants against the recovery of any damages, directly or indirectly, for an assault made necessary by his own obstinacy, if no more violence than is required for his ejection is used."

In Judge Baldwin's treatise on American Railroad Law, that author says: "But, as between the passenger and the conductor of the car in which he is, the terms of the ticket or check are conclusive, and the right to ride upon it on that train is, for the time being, to be determined accordingly. . . . In any of these cases where the ticket varies from the true contract if the passenger is ejected, the conductor commits no trespass, but the company is liable to an action for breach of contract. The damages for this breach will not be aggravated by the expulsion from the car. The plaintiff should have left it voluntarily."

It would seem to be agreed by all the authorities that where unnecessary force is used in expelling a passenger, that the railroad company is liable for such assault. Whether the force used was unnecessary or not would usually be a question for the jury under proper instructions from the court.

From a somewhat thorough review of the authorities pro and con on this mooted subject, admitting the conflict of authority upon the same, yet the writer is disposed to make the following legal conclusions, deducted from the holdings, as being the most logical, reasonable and as supported by the most recent decisions.

1. A railroad ticket is, as between the passenger and conductor, the exclusive evidence of the passenger's right to be carried.

2. It is a passenger's duty to examine his ticket or transfer, when the same is given to him, and if there is any mistake in the same, to call the agent's attention to it, so that it may be corrected.

3. It would tend to promote breaches of the peace to require a conductor to take the oral statement of a passenger, where he