

TRAVELLING BY RAIL.

false imprisonment, it was held, that as such arrest, after the attempt had ceased, could not be necessary for the protection of the Company's property, but was merely to vindicate justice, the clerk had no implied authority to arrest the man: his authority only extended to the doing of such acts as were necessary for the fulfilment of the duties entrusted to him; and that the company was, therefore, not liable for the act of the clerk, nor for that of the policeman who took A. into custody. Blackburn, J., was inclined to think that if a man in charge of a till were to find that a person was attempting to rob it, and he could not prevent him from stealing the property otherwise than by taking him into custody, the person in charge of the till might have an implied authority to arrest the offender: or if the clerk had reason to believe that the money had been actually stolen, and he could get it back, by taking the thief into custody, and he took him into custody with a view of recovering the property taken, it might be that that also could be within the authority of the clerk: *Allen v. London & S. W. R. W.* L.R. 6 Q. B. 65. From the above cases the rule, as to the liability of companies for the acts of their servants, may be deduced.

Under section 49 of the Railway Act, 1868, constables may be appointed to act on the line of any railway, who shall have full power to act as such for the preservation of the peace, and for the security of persons and property against felonies and other unlawful acts, on such railways and on its works, and in all places not more than one quarter of a mile distant therefrom; and to take before a justice of the peace any person guilty of an offence punishable by summary conviction under the act, or any of the acts and by-laws affecting such railway.

Any person who uses violent and

threatening language towards the conductor of a train, and interrupts him in the discharge of his duty, is liable to be apprehended and punished as for a misdemeanor. Where a man who had been apprehended and brought before a magistrate for such misconduct, was discharged by the Justice, and afterwards brought an action against the conductor, it was held that the complaint having been made and prosecuted by the defendant in his character as a railway conductor,—under sanction of an act of parliament,—he was entitled to six months notice of action, and that without such notice no action could be sustained: *Lauzeau v. Leonard*, 20 U.C. Q.B. 481.

As a learned judge remarks, no actions have been more frequent of late years than those against railway companies, in respect of injuries sustained on or through them: a few of these will be noticed now, although *ex necessitate* most will be left unreferred to.

It is the duty of a company to use due and proper care and skill in conveying travellers. The duty thus laid upon them does not arise from any contract made between the company and the persons conveyed by them, but it is one which the law imposes. If railways are bound to carry, they are also bound to carry safely: it is not sufficient for them to bring merely the dead body of their passenger to the end of the journey, and there deliver him up to those entitled to the remains: *Collett v. London & N. W. R. W.*, 16 Ad. & Ell. N. S. 984. Every person is a passenger and entitled to be carried safely, (so far as due care will provide for his safety), who is lawfully in the carriage of the carrier: *Great Western of Canada v. Brand*, 1 Moore, P.C., N.S. 101.

If one is lawfully on the road and is injured by the negligence of the defendants, he is entitled to recover, notwithstanding that he is a "dead-head," being