

CITY BULLETIN.

RIGHTS OF TRAVELERS.

GROSS OUTRAGE BY A CONDUCTOR AND DRIVER.

Colored People on Passenger Cars.

NISI PRUIS—Justice Thompson.—Addison Foster and Annie Foster, his wife, vs. The Phila. and Gray's Ferry Passenger Railway Company.—This was an action brought to recover damages for injuries sustained by Mrs. Foster, a colored woman, in being kicked from a car of the defendants on the 17th of August, 1886.

The case differs from others of the same class tried in this court, owing to the behavior of the conductor and driver towards the plaintiff and her companion. The case on the part of the plaintiff was as follows: Mary Jane Johnson, I live in Baltimore, Md., was in Philadelphia, August 17, 1886; was visiting Mrs. Foster on the evening of the 17th of August, when she was on Pine street at 7 o'clock. Mrs. F. lives in Addison street, between Seventeenth and Eighteenth; I was going with her to her home and a car came along. I stopped the car by holding up my hand and we got in. The conductor was standing on the back platform; farthest from the horses, where the conductor generally stands; we both popped into the body of the car, and sat down; we sat there about five minutes before the conductor came in and asked for our fares; conductor came in and took our fare; I gave him ten cents; my change was received; nothing was said about change; we got in between Ninth and Tenth streets; conductor, after taking our money, went on to the platform; some passengers in the car said, "There were niggers in the car;" conductor then came up and said, "You are niggers, you will have to get out on the platform;" this was about a quarter of eight having taken our fare; I told him no, we had paid our fare, and would get out on the platform; he said he would stop the car; the car was stopped about five minutes; he said he would run the car off the track; the driver said we will take you to the depot and white wash and splash you; the conductor stood at the one door and some one at the other; he told us to get out; a lady was going to get out, and Mrs. Fisher attempted to get out at the same time, and I tried to follow Mrs. Fisher; the conductor pushed us back in the car; the driver would not let us get out; the white lady got out as the car stopped.

Question—What do you mean—that he took hold of you? Answer—He pushed us back in the car; we were inside and went towards the door, and he told us to go back; the niggers should not get in the car; the driver next to a lady and gentleman opposite to Mrs. Foster started to get out and beckoned her to follow; the conductor did not see this; Mrs. Foster went to the door; the driver put his arm across the door; Mrs. Foster pushed her way past him and got on the platform, and just as she got on the platform he kicked her back; she fell back, and was not let me get up; he took me to the depot and Mrs. Foster followed me to the sidewalk; I tried to get out and they would not let me; the car stopped at the depot and they left me sitting there and said they would further to go; the conductor said so; I was sitting in the car when Mrs. Foster got there; she had followed the car out; I did not know where I was as I was a stranger in the city.

Mr. W. D. Hirst, Jr., objected to testimony in regard to what occurred in the depot. Judge Thompson, (to Mr. Goforth)—You know this is an action against the company for its regulations. Unless you can show that the company is liable for the acts of the driver and conductor to maltreat the passengers, this testimony would not be proper. If this was an action against the conductor and driver, I would make them remember it as long as they lived, but they cannot commit outrages in the name of the company.

The broad principle that the master is answerable for the acts of his agents in anything that pertains to the business of the master has been the Supreme Court so far extended as to make the company responsible for the acts of conductors and drivers when they are acting as driver and conductor in and about the business of the company. In this case, after the case was done, their hiring by the company was just as much a fact before, and anything they might do was just as much a part of the company's duties as when the car was on the street.

Justice Thompson—I can't agree with you. Mr. Goforth—I offer to prove the continuation of the act of the driver and conductor, after the car had reached the depot, and while it was still in charge of the agent. Mr. Hirst objected to this testimony, saying that at the end of the journey the conductor and driver ceased to be agents of the company, and were free to do as they pleased, and were personally responsible for their acts.

Justice Thompson sustained the objection, and declined to admit the testimony. Cross-examination by Mr. Hirst—I am plaintiff in the case proceeding against the same company; I had just come from Baltimore; arrived in the one o'clock train; I was on Pine street, Mrs. Foster; I was not with her in a rough manner, and conductor took my fare, nor when I got into the car; we got in between Ninth and Tenth streets. After some of the passengers made a disturbance, the conductor and driver got on the front platform; some of the passengers said we were "niggers;" the conductor was on the car at the depot; after that nothing was said to them until the car got near Eleventh; then the driver stopped the car; I had seen no signal from the conductor; the driver opened the door, and the women they knew they had no right there, and must get out; one of the women said she had just come from Baltimore, when the car stopped at the depot, and she and the other women had a right there; they refused to get out; the driver or conductor threatened to throw the car off the track if they didn't get out; then the conductor proposed to drive them to the depot and white wash them; at Broad street the car stopped again to let some one in or out, and the women attempted to get out; they said they had come as far as they wished to go; the conductor and some man at the rear prevented them from getting out, and car was driven on again; I think it necessary, and this agitation wished to get out and the conductor asked her if she would not sit still, as he didn't wish to stop the car for her; those women would get out; the car did not stop; at Nine-

teenth street I got out; I pulled the strap and I got out with my sister; the women made an attempt to get out; they rushed to the back door and they were stopped there; the men who were standing there; the conductor among them; one of the women got on the platform; I don't know what they did to her; but I heard her cry for help; it was dark; the car started with her on, and she jumped off after the car had started; that is all I know; I can't say whether she fell, but I saw her stagger; Miss Johnson remained in the car, and Mrs. Foster followed the car; I supposed Mrs. Johnson was kept there; there was some very bad language used by the passengers and driver and conductor; can't remember the words.

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Re-examination—It was between 7 and 8 o'clock in the evening; I was on the sidewalk when Mrs. Foster got off; I don't mean to say that I could not see what was done to her; because it was so dark; not very dark, I think, but I could not see what was well as in the day time; I don't know whether the regulations of the company allowed colored people or not; I saw no notice of the kind in the car; never heard a conductor speak of any such rule.

Henry A. Sheetz, the conductor, called by plaintiff, Mr. Goforth stating that he understood the judge to require him to prove the regulations of the company. Judge Thompson said that if he had conducted look place on the cars the Company is not responsible unless the Company has authorized this conduct.

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S. Gross Fry, the President of the Baltimore Company, testified as follows—I believe I know the rules and regulations of the Company; one is to allow no colored people in the cars, except in special cases—servants in charge of children, or servants in charge of goods or inferior persons.

Cross-examination—On the front platform all colored persons are allowed to ride; we had a special car for colored people at that time. To Mr. Goforth—We have none now. Mr. Wm. L. Hirst, Jr., for the defendant, moved for a nonsuit upon the ground that the company could not be held responsible for the conduct of the conductor and driver, unless authorized by the rules and regulations of the company.

Mr. Goforth reviewed the facts proven in the case, as stated by the witnesses, and the regulations excluding colored people; he said he was unable to prove a rule to keep them in or to authorize the conductor to kick them out. An officer of the Company, as he believed, under the regulations, committed this station charge upon the conductor and driver. The Company employed to take care of and protect any citizen who might get in, and they are responsible for anything that man did within the scope of his authority, and the measure of his authority at that occasion was the control of that car. The Supreme Court has decided that it is the duty of these companies to employ humane, sober and careful men, and it is held that acts of omission and commission by the agent render the Company responsible in damages. This was in charge of the car. If he had gone on the sidewalk, and had committed a wrong, the Company would not be responsible, but here the conductor was in charge of the car, and they are responsible for his conduct on this occasion as they would be if he had pushed a passenger out of the wheels. It cannot be said that after I have paid my fare and endeavor to get off I can be rudely pushed back and prevented. It is said that I have a remedy in the case of assault and battery, but this is not a remedy for this plaintiff; that is a suit between the Commonwealth and the conductor. If the conductor was acting unjustly, what he considered to be the regulations of the company, the Company is responsible.

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RELIGIOUS NOTICES.

CHRISTMAS SERVICE at Langstroff's Hall, Germantown, to-morrow a 7 o'clock. The Rev. Wm. H. Benson will preach to-morrow at 10 A. M. and 7 P. M. at the vestry.

SECOND BAPTIST CHURCH, Germantown, to-morrow at 10 A. M. and 7 P. M. at the vestry.

OXFORD PRESBYTERIAN CHURCH, Broad and Oxford streets, Rev. Samuel C. H. Johnson will preach to-morrow at 10 A. M. and 7 P. M. at the vestry.

CALVARY PRESBYTERIAN CHURCH, Broad and Calvary streets, Rev. Dr. C. H. Johnson will preach to-morrow at 10 A. M. and 7 P. M. at the vestry.

THE REV. W. H. TORRENCE will preach in the Ebenezer M. E. Church, Christiana street, to-morrow morning at 9 o'clock.

OWBANTOWN SECOND PRESBYTERIAN CHURCH, Tullock and Green streets, preaching to-morrow morning, at 10, and evening at 7, by Rev. M. Fairclough.

WEST ARCH STREET PRESBYTERIAN CHURCH, corner of Eighth street, Rev. E. J. Johnson will preach to-morrow at 10 A. M. and 7 P. M. at the vestry.

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