

LITTLETON N. BANK v. P. & O. RAILROAD, and THOM, Tr.

The station agent of a railroad corporation, in a suit against it, is chargeable as trustee for money collected from the sale of passenger tickets and for freight carriage.

FOREIGN ATTACHMENT. The trustee is one of the station agents of the defendant corporation, and in his deposition disclosed money in his hands at the time of service of the plaintiffs' writ, and subsequently, received by him from the sale of passenger tickets and for freight. The question is on his liability as such trustee.

Bingham & Mitchell, for the plaintiff.

W. & H. Heywood, for the trustee.

ALLEN, J. The station agent is not a constituent part of the corporation. He is a servant, and, in a limited sense, an agent of that body, with special duties assigned to him, and having no general authority. He has no discretion in the disbursement of money received by him, except to pay it to the corporation or on its order, and in default of such payment may be sued for its recovery. One railroad may be held as trustee of another railroad, for moneys collected from freight and passengers—*Smith v. B. C. & M. R. R., and B. & M. R. R., Trs.*, 33 N. H. 337; and no reason appears why an individual, collecting such moneys for a railroad, should not as well be made liable as its trustee.

Trustee chargeable.

SAWYER and BINGHAM, JJ., did not sit.

COÖS.

CARTER v. THURSTON & a.

The navigability of a stream, for the purpose of bringing it within the denomination of a public river or highway, does not depend upon the mode by which commerce is conducted upon it, as whether by steamers, or sailing vessels, or boats, or rafts, nor upon the difficulties attending navigation; it depends upon the question, whether the river in its natural state is such that it affords a channel for useful commerce.

A person, properly using a public stream by floating logs upon it, is not responsible at common law to a riparian proprietor for damages occasioned by the stranding of logs on his land, if the owner or driver of the logs has used every reasonable effort to retain them within the stream.