

trespass—an intrusion into the premises without the consent of the owner. *State v. Mesh* (1907), 36 Mont. 168, 92 Pac. 459; see also *People v. Kelly* (1916), 274 Ill. 556, 113 N. E. 926; *State v. Moore* (1841), 12 N. H. 42; *State v. Newbegin* (1846), 25 Me. 502, has been cited in support of the contrary view. It should be noted, however, that the Maine statute requires both a breaking and entry to constitute burglary.

The intention of the legislatures in defining the offense of burglary was to abolish the technical distinctions between acts that do not differ essentially in point of criminality. It seems that the decision in *State v. Bull* is in line with this development.

E. S., '31.

**CARRIERS—LIABILITY ON FORGED BILL OF LADING ISSUED BY AGENT.**—An employee of a railway company went to a bank in a different state from that in which he worked and under an assumed name forged a draft on plaintiff cotton company and a bill of lading calling for 110 bales of cotton. No cotton was ever delivered for shipment. The employee, in his capacity as such, informed plaintiff that the cotton had arrived. Relying on this assurance the plaintiff paid the draft. *Held*, defendant railway company is liable for the amount so paid on the ground that the employee had authority to notify persons in the position of plaintiff of the arrival or nonarrival of merchandise. *Gleason v. Seaboard Air Line Railway Co.* (1929), 49 S. Ct. 160.

By the early English rule the carrier was not liable on bills of lading issued by a servant when the goods had not been received, on the theory that the servant had not acted within the scope of his authority. *Berkley v. Watling* (1832), 7 A. & E. 29; *Grant v. Norway* (1852), 10 C. B. 665; *Hubbersty v. Ward* (1853), 8 Ex. 330. However, shortly after the leading case of *Grant v. Norway*, *supra*, was decided the English Bills of Lading Act (1855) made every bill of lading in the hands of a consignee or indorsee for valuable consideration conclusive evidence of the shipment of such goods as it represented, against the person signing it.

The Federal courts also held early that the taker assumes the risk of the apparent authority of the servant to issue the bill of lading. *Schooner Freeman v. Buckingham et al.* (1855), 18 How. 182. A line of cases held that if no goods were actually delivered, the carrier could not be held liable. *Pollard v. Vinton* (1881), 105 U. S. 7; *Iron Mountain R. R. Co. v. Knight* (1887), 122 U. S. 79; *Friedlander v. Texas and Pacific Railway Co.* (1888), 130 U. S. 416; *Missouri Pacific Railway v. McFadden* (1894), 154 U. S. 155. Many of the state courts followed the same rule. *Louisville & Nashville Ry. Co. v. Nat. Park Bank* (1914), 188 Ala. 109, 65 So. 1003; *St. Louis I. M. & S. Ry. Co. v. Citizens' Bank* (1908), 87 Ark. 26, 112 S. W. 154. Other state courts, however, held the carrier liable on the ground of estoppel. *Bank of Batavia v. N. Y. L. E. & W. Ry. Co.* (1887), 106 N. Y. 195, 12 N. E. 433; *Brooke v. N. Y. L. E. & W. Ry. Co.* (1885), 108 Pa. 529, 1 Atl. 206; *M. K. & T. Ry. Co. v. Sealy et al.* (1908), 78 Kan. 758, 99 Pac. 230. As a result of the desire to emerge from the hopeless conflict on this

point the Federal Bills of Lading Act (39 Stat. 542, 44 U. S. C. 102) virtually adopted, in section 22, the former minority view imposing liability on a carrier whose agent issued a bill of lading without all or any part of the goods having been delivered to it. The Uniform State Bills of Lading Act, similar on this point to the Federal act, has been adopted by the following states: Arizona, California, Connecticut, Delaware, Idaho, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, Alaska, and the Philippine Islands.

The Federal court below found for the carrier, arguing that the Bills of Lading Act did not cover a situation in which the employee's act was entirely in furtherance of selfish motives. *Seaboard Air Line R. v. Gleason* (C. C. A. 5, 1927), 21 F. (2d) 883. The Supreme Court, however, notes no difference between this situation and the one in which the employee's default is actuated by other sinister motives or by negligence. This view represents the general weight of authority. *Planters' Rice-Mill Co. v. Merchants' Nat. Bank* (1887), 78 Ga. 574, 3 S. E. 327; *McCord v. Western Union Telegraph Co.* (1888), 39 Minn. 181; *Lloyd v. Grace* (1912), A. C. 716, 5 B. R. C. 498. The Supreme Court does not base liability on the apparent or implied authority of the agent to issue the bill of lading, for he had no such authority. The forgery was entirely outside the master's business. The carrier is held liable on the apparent authority of the agent to tell plaintiff whether or not the goods had arrived. But section 22 of the Bills of Lading Act applies to the carrier whose agent had the actual or apparent authority to issue the bill. This decision expands the rule as laid down in the Bills of Lading Act to take in a new and slightly different situation.

B. L. W., '31.

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CONSTITUTIONAL LAW—DUE PROCESS OF LAW—COMPULSORY EDUCATION STATUTES.—Complaints were filed by the State of New Hampshire against the named defendant and others, charging in each case a failure to cause a child of defendant to attend public or approved private schools, as required by Public Laws 1926, c. 118, secs. 1, 2. The defense was that in each case the child was being taught by a private tutor in his own home in the studies required to be taught in the public schools to one of his age. The Supreme Court of New Hampshire held the statute not unconstitutional as against the guaranty of liberty in the Fourteenth Amendment to the Constitution of the United States. *State v. Hoyt* (N. H. 1929), 146 Atl. 170.

The constitutionality of general compulsory education statutes, requiring children between certain specified ages to attend schools, has been affirmatively determined. 35 Cyc. 1122; 24 R. C. L. 621; Ann. Cas. 1912A, 373; *State v. Bailey* (1901), 157 Ind. 324, 61 N. E. 730; *State v. Jackson* (1902), 71 N. H. 552, 53 Atl. 1021. Likewise, compulsory vaccination statutes have been rather universally upheld, as have statutes penalizing parents and