147 U. S. 101; reported, with extensive notes in Book 37 of the Lawy. Co-Op. Ed. p. 97. See also *Pittsburg etc. R. Co. v. Russ*, 57 Fed. Rep. 822 (6 C. C. A. 597).

But the weight of authority in the State courts is opposed to this view, and in these courts it is very generally held that a corporation is liable in punitive damages for the malicious and wanton wrongs of its servants, done in the course of their employment, though neither authorized nor ratified. This liability has been recognized in actions by passengers against railroad companies more frequently than in any other class of cases. Indeed, it is asserted by Mr. Freeman, in the note to *Spellman v. R. & D. R. Co.* cited below, that such liability has been upheld in nearly every instance in the latter class of cases.

The subject is discussed in a learned and exhaustive note to *Spellman v. R. & D. R. Co.* (So. Car.) 28 Am. St. Rep. 858, 770–883, where the authorities *pro* and *con* are collected. See further on the subject, Shearm. & Redf. on Neg. (4th ed.), sec. 749; 1 Harris Dam. by Corp. 9249; Sutherland on Dam. 750.

On the subject of punitive damages generally, see note to *Merrill v. Tariff Manuf. Co.* (Conn.), 27 Am. Dec. 682, 684–689; and note to *Austin v. Wilson* (Mass.), 50 Am. Dec. 766, 767–775; *Borland v. Barrett*, 76 Va. 128.

In *N. & W. R. Co. v. Anderson*, 90 Va. 1, a railroad company was held liable in punitive damages to a passenger, wrongfully ejected by the conductor, but on the ground that the company subsequently ratified the conductor's act. In *Lipscomb v. N. & W. R. Co.* 90 Va. 137, the court, after finding that the case was not a proper one for punitive damages at all (there being no ingredients of malice or fraud or of intentional wrong—p. 142) adopts in a *dictum* (p. 146), and without noticing the decisions to the contrary, the rule of the Supreme Court of the United States on the subject. In *N. & W. R. Co. v. Neely*, 1 Va. Law Reg. 277, the court said that an instruction that punitive damages might be recovered "if the act was wanton and oppressive, and if the company, after knowledge thereof, participated in it or ratified it, expressly or by implication," correctly propounded an abstract principle of law, but that there was no evidence upon which to base such an instruction—the wrong complained of being the result of an innocent mistake. There was no discussion of the principle, and no citation of authority.

The law on this subject cannot be said, therefore, to be settled in Virginia. The *dicta* in the two cases last cited seem to show a leaning of the Virginia court towards the Supreme Court rule, but nothing else.

GUARDIANS AD LITEM—*Admission by—consent proceedings.* It is well settled that no admission by the gurdian *ad litem*, whether of record or otherwise, is binding on the infant defendant. Nor can there be a consent decree, or waiver of proofs, or the concession of any right of the infant by the guardian *ad litem*. *Dangerfield v. Smith*, 83 Va. 81, 91; *Waterman v. Lawrence* (Cal.), 79 Am. Dec. 212.

But this principle does not preclude the right of the guardian *ad litem* to consent to mere matters of procedure, for the sake of convenience, not affecting the substantive rights of the infant—as, for example, consenting to trial in vacation, or to a continuance of the cause, etc. *Morriss v. Va. Ins. Co.*, 85 Va. 588, 593–4: *Kingsbury v. Buckner*, 134 U. S. 678, 681.