

M.R., as "the fount of bad argument," and Rigby, L.J., says "there must be some vice in the reasoning of the learned judges in that case." Lopes, L.J., on the other hand, affirms that it is "a binding authority," and recognized as such by the House of Lords recently in the memorable case of *Bank of England v. Valiagno*, (1891) A.C. 107. When such eminent doctors differ, who is to decide?

MASTER AND SERVANT—SERVANT'S AUTHORITY—EMERGENCY.

In *Gwilliam v. Twist*, (1895) 1 Q.B. 557, we find the defendants were doubly unfortunate. They were the owners of an omnibus, of which the driver got so drunk that he was ordered by a policeman to discontinue driving. The driver and the conductor thereupon authorized a man named Viars, who happened to be passing by, to drive the omnibus home, and Viars, while so driving the omnibus, negligently drove over the plaintiff and injured him. The question was whether Viars was the servant of the defendants, so as to render them liable for his negligent driving. The case was tried in the County Court, and the judge found, as a fact, that it was necessary that some one should drive the omnibus home, and upon this finding the Divisional Court (Lawrance and Wright, JJ.) held that there was an implied authority to the driver and conductor to employ Viars, and that the defendants were, therefore, liable. Wright, J., is careful to point out that this implied authority would not have justified the doing of any act which the masters themselves could not have legally done. For instance, had there been any statute prohibiting the employment of any person to drive who was not duly licensed, it would not have authorized the employment of an unlicensed driver. This learned judge, though admitting that there was some evidence to justify the finding of fact of the emergency existing, yet intimates a doubt whether he would have arrived at the same conclusion.

NEGLIGENCE—DAMAGE—REMOTENESS—AGISTMENT.

*Halestrap v. Gregory*, (1895) 1 Q.B. 561; 15 R. April 358, was an action to recover damages for injury sustained by the plaintiff's horse while in the defendant's care under a contract for agistment. The horse was in the field at pasture, and the defendant left open the gate whereby the horse strayed into an adjoining