13. Liability considered with reference to the element of ownership.—(*a*) *Vehicle or horse owned by master.*—It is always

state of mind acted recklessly, wantonly, and improperly, but in the course of his service and employment, and in doing that which he believed to be for the interest of the defendants, then the defendants were responsible for the act of their servant; that, if the act of the defendants' driver, in driving as he did across the road to obstruct the plaintiff's omnibus, although reckless driving on his part, was nevertheless as an act done by him in the course of his service, and to do that which he thought best to suit the interest of his employers and so to interfere with the trade and business of the other omnibus, the defendants were responsible, that the liability of the master depended upon the acts and conduct of the servant in the course of the service and employment, and that the instructions given to the driver not to obstruct another were immaterial; but that if the true character of the driver's act was that it was an act of his own, and in order to effect a purpose of his own, the defendants were not responsible." These directions were held to be correct, and a verdict for the plaintiff was sustained. Crompton, J., said: "It appears by the evidence of the driver that he was driving the defendants' omnibus in an improper way, for, without intending to touch the horses of the plaintiff's omnibus he drove so near to it, for the purpose of keeping it from passing him, that he caused the accident. It is not necessary to say what would have been the case if the driver had used the omnibus so as to block up the road; as it is, I cannot see that the direction of my brother Martin was necessarily wrong. If the matter had come before us on a motion for a new trial, it may be that I should have agreed with my brother Wightman, for the question might have been presented in such a way as to bring it more clearly before the jury, and it is possible that some expressions of the learned judge, may have led them to a wrong conclusion. But the question now is, whether any of the exceptions shew that the learned judge was wrong in point of law. Throughout his summing up he left it to the jury to say whether the injury resulted from an act done by the driver in the course of the service and for his master's purposes. That is the true criterion." Willes, J., after expressing his approval of the statement of Martin, B., with regard to the immateriality of the fact that the defendants' driver had been specially instructed not to obstruct any other driver, proceeded thus: "But there is another construction to be put upon the act of the servant in driving across the other omnibus; he wanted to get before it. That was an act done in the course of his employment. He was employed not only to drive the omnibus, which alone would not support this summing up, but also to get as much money as he could for his master, and to do it in rivalry with other omnibuses on the road. The act of driving as he did, is not inconsistent with his employment, when explained by his desire to get before the other omni-