whatever from the inmate. He also referred to Holder v. Soulby, 8 C. B. N. S. 254.

WINCHESTER, Co.J.—The evidence on behalf of plaintiff is to the effect that plaintiff, being seriously injured in the head and body, was taken to the emergency hospital belonging to defendants, and while there $160, wrapped up in a handkerchief and tied around his leg below the knee, was taken from plaintiff by a ward-tender named Venning or Hillington in defendants' service, and that he has not received any part of the money since. The ward-tender was arrested on a charge of the theft of this money, and a handkerchief was found in his possession, which plaintiff stated was the one in which the money was wrapped. On the hearing of the charge of theft the ward-tender was acquitted.

The evidence on behalf of defendants contradicted that given by plaintiff as to the place and manner of his undressing, and would indicate that there was no money taken from him either by the ward-tender or any one else. Had the ward-tender been called, and explained how he came into possession of the handkerchief claimed by plaintiff, and shewed that he did not receive any money in it, there would have been no necessity for reserving judgment in the case; but this was not done, although it was shewn that the man was available.

In considering the evidence, one cannot overlook the fact that plaintiff, during the whole time he was in the emergency hospital, a period of 7 days, never once referred to this money; and, although $4, in a purse, handed by him to one of the nurses when he entered the emergency hospital, was returned to him when leaving it, he did not refer to or ask for the $160 which he now alleges was taken from him.

Defendants are sued as being responsible for the actions of their servant, it being alleged that he took the money. The limits of liability of a master for torts of a servant are set out in Clerk and Lindsell on Torts, p. 69, as follows: "Where the relationship of master and servant exists, the employer is liable for all torts committed by the person employed, provided first, they were within what is usually termed the scope of the employment, and secondly, were either unintentional, that is to say, amounted to mere acts of negligence, or if intentional, were intended to be done in the interest and for the benefit of the employer."

It is clear that if the money in question were taken by the ward-tender as alleged, the taking was not done within the scope of his employment as set forth in the above limits. On this point I would refer to Cheshire v. Bailey, 21 Times