14. Liability as affected by special statutes.—With reference to an English statute which enacts that a magistrate may, in summary proceedings, inflict a penalty upon the driver of a hackney carriage or a metropolitan stage carriage, and also provides that compensation may be awarded, either against the driver's employer or the driver himself, to the party

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vant's duty and employment. There was ample evidence of such implied request or assent here."

In *Turcotte* v. *Ryan* (1907) 39 Can. Sup. 8, affirming Que. Rep. 15 K.B. 472, where T., an employé of D., while in discharge of the duties of his employment, driving his own horse attached to a vehicle belonging to his employer, who also owned the harness, negligently caused injuries to C., which resulted in his death, it was held that the master and servant were jointly and severally responsible in damages. In the lower court the ground upon which the master's liability was disputed by counsel was that the master could not exercise any supervision over the work. This ground was clearly untenable if the tortfeasor was to be regarded as standing in the relation of servant to the defendant, for the purposes of the journey in question. It was, however, a point open to argument whether he was not simply a bailee in respect of the vehicle, and the rationale of the dissenting judgment of Lacoste, C.J., in the lower court, was that this was really his position. But in view of the fact that he was driving in the discharge of the duties which he had been engaged to perform, such a conclusion could, it is apprehended, only have been justified by clear and specific evidence that he had ceased for the time being to be a servant. Such evidence is not disclosed by the report.

In *Goodman* v. *Kennell* (1827) 3 Car. & P. 167, 1 Moore & P. 241, a person occasionally employed by the defendant as his servant, being sent out by him on his business, took the horse of another person, in whose service he also worked, and, in going, rode over the plaintiff. At the trial, it was left for the jury to say, whether or not the horse was taken by the servant with the implied consent or authority of the defendant. The following statement made by Parke, J., to the jury must be taken with the qualifications indicated by the footing upon which the case was thus submitted to them: "I cannot bring myself to the length of supposing that, if a man sends his servant on an errand, without providing him with a horse, and he meets a friend who has one, who permits him to ride, and an injury happens in consequence, the master is responsible for that act." A new trial was moved for, but refused.

In *Wilson* v. *Pennsylvania R. Co.* (1899: N.J.L.) where damages were claimed for injuries sustained in a collision with a wagon belonging to an express company, driven by a person employed by a railway company to carry the mail-bags, which had previously been carried on foot or in a push cart, it was held that a nonsuit was proper as there was no evid-