and *McManus* v. *Lancashire*, 4 H. & N. 327, but as these were decisions under the Railway and Canal Traffic Act, they cannot support a case in our courts.

There were, however, many other cases which might have been referred to, and among them were the following:

(*a*) *Ellis* v. *Turner*, 8 T. R. 531, decided in 1800, was an action against ship owners for damages for loss of goods, occasioned by the accidental sinking of the vessel in the river Trent; and it was held that the defendants were liable for the full amount of the loss, notwithstanding their notice that they would not be answerable for losses in any case, except the loss were occasioned by the want of care in the master, nor even in such case beyond 10 per cent., unless extra freight were paid. No extra freight was paid. The negligence complained of consisted in carrying the goods past the point where they should have been landed.

(*b*) *Beck* v. *Evans*, 16 East 244, decided in 1812. The defendants had given notice that they would not be answerable for cash, bank notes, jewels, etc., *or any other goods of what nature or kind soever*, above the value of £5, if lost, stolen or damaged, unless a special agreement was made, and an adequate premium paid over and above the common carriage. The plaintiff delivered a cask of brandy valued at £70 to defendants for carriage, and paid 1*s*. 6*d*. at the time for booking, which was the common charge independent of the carriage price. No special agreement was made.

Lord Ellenborough said (p. 247):—

"But upon the other point, I think the carrier does not stipulate for exemption from the consequence of his own misfeasance; and if goods are confided to him, and it is proved that he has misconducted himself in not performing a duty which by his servant he was bound to perform, that is such a misfeasance as, if the goods thereby become damaged, his notice will not protect him from."

(*c*) *Bodenham* v. *Bennett*, 4 Price 31, decided in 1817. There the defendants were proprietors of a coach, and had given the usual notice that they would not be liable for parcels above £5, unless insured and paid for accordingly. The plaintiff's clerk took a parcel, containing notes to the amount of £347 11*s*., to the coach office to go by the coach to Brecon. He paid a halfpenny for carriage and booking. No insurance was demanded or paid. On the following morning the parcel was entered in the way bill and put in the back seat of the coach. The coachman on that day was intoxicated, but not so as to be unable to attend to his business. The parcel was lost. The jury found for the plaintiff.

Wood, B., said at p. 34:—

"I see no ground to disturb the verdict. By the common law, the carrier was liable for losses arising from accident or robbery; nay, from irresistible force. The case of *Morse* v. *Slue* (1 Vent. 238), pressed extremely hard on common carriers. Then special conditions were introduced, for the purpose of protecting carriers from extraordinary events; but they were not meant to exempt them from due and ordinary care. It cannot be supposed that people would entrust their goods to carriers on such terms. It only means, that they will not be answerable for extraordinary events; but we need not in this case lay down that rule.

"Here has been gross negligence, and in all cases of that sort carriers are liable."

(*d*) *Smith* v. *Horne*, 8 Taunt. 144, decided in 1818. This was an action of *assumpsit* against a carrier. And it was held that gross neglect will defeat the usual notice given by carriers for the purpose of limiting their responsibility.

Park, J., in delivering judgment, said:

"The doctrine of carriers exempting themselves from liability by notice has been carried much too far."

Burrough, J., said:—

"The doctrine of notice was never known until the case of *Forward* v. *Pittard*, (1 T. R. 27), which I argued many years ago. Notice does not constitute a special