

BAILMENT—MASTER AND SERVANT—UNAUTHORIZED ACT OF SERVANT—INJURY TO ARTICLE BAILED—LIABILITY OF MASTER.

Sanderson v. Collins (1904) 1 K.B. 628, is one of those cases calculated to provoke a good deal of difference of opinion. It turns on the somewhat thorny law of bailments. The plaintiff was a carriage builder and had lent the defendant a carriage to use whilst his own was being repaired. The defendant's servant, without his authority, and not in the course of his employment, took the plaintiff's carriage out for his own purposes and got drunk, and while driving it ran into a tram-car whereby the carriage was damaged. The question therefore was, whether the master was liable to the plaintiff for the injury thus done to the carriage. The case was tried in a County Court, and the County Court judge held that the defendant was not liable. On the other hand the Divisional Court (Lord Alverstone, C.J., and Wills and Channell, JJ.) held that he was liable, following, as they supposed, *Coupe Co. v. Maddick* (1891) 2 Q.B. 413 (noted ante vol. 27, p. 524); but the Court of Appeal (Collins, M.R., and Romer and Mathew, L.JJ.) distinguished that case, on the ground that the servant there, though exceeding his instructions, was acting in the course of his employment, whereas in the present case he was not. As the Court of Appeal puts it, a bailee is not responsible if, without his fault, the article bailed is stolen, so neither is he responsible if, without his fault, the article bailed is injured by some stranger. At the same time it does seem somewhat hard that as between the bailor and the bailee the latter should not be answerable for the act of his servant; the answer the Court makes to that, however, is, that in doing the act which resulted in the damage the servant was doing an unauthorized act, and therefore qua that act he was not the defendant's servant, which is one of those refinements of law which the average man will hardly think looks like common sense.

CHARTER-PARTY—FREIGHT AT THE RATE PER TON OF CARGO SHIPPED—FREIGHT PAYABLE ON RIGHT AND TRUE DELIVERY OF CARGO—LOSS OF PART OF CARGO—BILL OF LADING FREIGHT COLLECTED BY SHIPOWNER—RIGHT OF CHARTERER TO RECOVER DIFFERENCE BETWEEN FREIGHT COLLECTED AND FREIGHT DUE FOR CARGO DELIVERED.

The *London Transport Co. v. Trechmann* (1904) 1 K.B. 635, was an action brought by the plaintiffs as charterers of a vessel to recover a sum alleged to have been received by the shipowners for freight in excess of the freight actually earned owing to a loss of