

Canada Law Journal.

VOL. XL.

SEPTEMBER, 1904.

NOS. 17 & 18.

LIABILITY OF AN EMPLOYER FOR THE TORTS OF AN INDEPENDENT CONTRACTOR.

PART I.—CIRCUMSTANCES UNDER WHICH LIABILITY IS NOT IMPUTED TO THE EMPLOYER.

I. INTRODUCTORY.

1. General doctrine stated.
2. History of the doctrine.
 - (a) *Bush v. Steinman* considered.
 - (b) *Doctrine that different rules apply to real and to personal property.*
 - (c) *Final rejection of this doctrine.*
 - (d) *Effect of decision in Randleson v. Murray.*
 - (e) *Subsequent development of the law.*
3. Rationale of the doctrine.
4. Extent of the employer's duty with respect to the supervision and direction of the work.
5. Extent of employer's duty to guard against possible accidents.

II. WHEN THE PERSON EMPLOYED IS DEEMED TO BE AN INDEPENDENT CONTRACTOR.

6. Independent contractors distinguished from servants and agents. Generally.
7. Persons acting in the dual capacity of contractor and servant or agent.
8. Contractors not within purview of statutes relating to servants or agents.
9. Character of contract is tested by the existence or absence of a right of control on the employer's part.
10. Same subject continued.
11. Presumptions entertained as to the character of the contract.