injury was sustained while the complainant was riding upon

the end of one journey and the beginning of the next the conductor has any duty with reference to the horses, or what that duty, if any, may be. I have considered it right to express by view that, in the absence of the driver when the omnibus is out taking passengers, primâ facie it is the duty of the conductor to take charge of the omnibus in the absence of the driver, and, if what he does is apparently consistent with that duty, it would be for the defendants to prove that in fact what he was doing was beyond his functions."

In *Wilson* v. *Owens* (1885) 16 L.R. Ir. 225 (decision affirmed by Court of Appeal), the defendant was the proprietor of a hotel and shop in the town of C., and kept a pony and chaise for his own personal use, They were not used for the purpose of the defendant's business. The accident in question occurred during a temporary absence of the defendant, who had left a servant, E., in charge of the shop only, with the authority to sell goods, and generally to see that things went right in his absence. The defendant gave E. no authority to drive. Another servant named M. was in charge of the yard and it was his duty to drive when the defendant required. The housekeeper had charge of the house. While the defendant was so absent, one of his relatives, Q., who admittedly had no authority to act as his agent, called at the house, and, when leaving, was by his request driven by E. in the pony chaise to the neighbouring railway station. When E. was so driving the pony and chaise the accident took place. *Held*, that there was no evidence proper to be submitted to the jury that E. was at the time of the accident acting in the course of his employment as the defendant's servant. Andrews, J., said: "In considering whether there was any evidence fit to go to the jury upon the question above referred to, the whole of the evidence affecting it must be considered. Egan's evidence, on cross-examination, that he was left in charge when the defendant was away, and that he was there in the defendant's place when he was away (which are probably the strongest statements in the entire evidence in the plaintiff's favour), cannot, as was conceded, be taken without some qualification, and must be taken in connection with his evidence that he never drove the defendant's trap; with the admitted absence of any express authority to him from the defendant to drive it; with the evidence of Thomas Quinn, that it was he who ordered out the trap, and said that Egan could drive (which order on the defendant's uncontradicted evidence, Quinn had no authority to give); with the undisputed fact that the person whose business it was to drive the pony was M'Nally, and not Egan; and with the defendant's evidence that Egan was the man he looked to to see that, when he was away, things would go on as before."

In *Martin* v. *Ward* (1887) 14 Sc. Sess. Cas. 4th Ser. 814, a salesman in a shop having borrowed a van from a friend who came with it to drive it, placed on it, with his master's knowledge and consent, certain articles which he had been directed to remove to another shop. The driver having