

did defendant assert any right, namely, by requiring the maintenance of a free omnibus service to his hotel. All the acts of the parties shew that their understanding of the arrangement was, that, whilst defendant was to be entitled to the free omnibus service, it was Mullen's right to arrange the means for the attainment of that end. Where such is the case, the result, and not the means of its attainment, being the subject matter of the agreement, the inference is that the relationship of master and servant does not arise: *Goldman v. Mason*, 2 N. Y. Supp. 337; *Hexamer v. Webb*, 101 N. Y. 385. Whether Mullen was defendant's servant is a question of fact, and, there being no conflict of evidence, we are at liberty to draw inferences.

For these reasons, being of opinion that the relation of master and servant was not established, and consequently defendant was not responsible for Mullen's negligence, I find myself, with great respect, unable to agree with the conclusions of the trial Judge, and think this appeal should be allowed with costs and the action dismissed with costs.

ANGLIN, J., gave written reasons for the same conclusion. As to the duty of an appellate tribunal to review inferences of fact drawn by the trial Judge, he referred to *Russell v. Lefrancois*, 8 S. C. R. 335; *Gallagher v. Taylor*, 5 S. C. R. 368; *North Perth Election Case*, 20 S. C. R. 331. Upon the question as to whether the relation between defendant and Mullen was that of master and servant or bailor and bailee, he referred to *Saunders v. City of Toronto*, 26 A. R. 265, 270, 272; *Venables v. Smith*, 2 Q. B. D. 279; *King v. London Improved Cab Co.*, 23 Q. B. D. 281, 283; *Keen v. Henry*, [1894] 1 Q. B. 292; *King v. Spurr*, 8 Q. B. D. 104, 105, 108.

CLUTE, J., dissented, for reasons stated in writing, in the course of which he referred to *Powles v. Hider*, 6 E. & B. 207; *Venables v. Smith*, 2 Q. B. D. 279; *Laugher v. Pointer*, 5 B. & C. 547; *Dean v. Branthwaite*, 5 Esp. 35; *Sammell v. Wright*, 5 Esp. 263; *Quarman v. Burnett*, 6 M. & W. 499, 509; *Patten v. Rea*, 2 C. B. N. S. 606; *Booth v. Mister*, 7 C. & P. 66; *Moreton v. Hardern*, 4 B. & C. 223; *Waland v. Elkins*, 1 Stark. 272; *Fromont v. Coupland*, 2 Bing. 170; *Roscoe's N. P.*, 17th ed., p. 763; *Saunders v. City of Toronto*, 26 A. R. at p. 273; *Stephen v. Thurso Police*