Alabama and Massachusetts cases, so far as they go, seem to make the railway company liable for the negligence of all employés who for any space of time, however short, have the power to adjust a switch for the purposes of traffic (*b*). Negatively, therefore, these cases are authorities against the theory propounded by Brett, M.R., that the statute contemplates a "general charge." Further doubt is thrown upon the correctness of that theory, if we consider the context of the provision. The most natural construction of the words describing the other employés who are declared to be vice-principals in respect to particular functions is that the legislature had in view the employés who actually operate the instrumentalities specified. If this conception be the true one, it is clear that the maxim, Noscitur a sociis, furnishes a strong reason against limiting the application of the phrase now under discussion to employés who have a general charge of points. Upon the whole, therefore, it is submitted that the non-liability of the employer in the *Gibbs Case* may be more properly referred to the theory announced by Matthew, J., viz., that the statutes are intended to cover only cases in which the control of the points is exercised in regulating the movements of cars (*c*).

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witness of facts. The plaintiffs were bound to shew by evidence what were the duties of this man, when it would be for the court to say whether having such duties he was a person who had the charge of the points as intended by the statute. Fisher himself, when cross-examined, said what his duties were: 'my duties are,' he said, 'to clean and oil the locking bars and apparatus. I had several places to go to, I worked under Inspector Saunders.' The meaning of working under Saunders, is that Saunders might order him at any moment to go to such and such a place and oil the bars and apparatus there, or not to go to the place he had intended to go to for the purpose of oiling the bars. The evidence which was given, shewed, I think, that Fisher was only a little above a labourer, that he had to do manual work on what he was told to look to; and that he was not a person who had the charge of those things upon which he had to do such work under such circumstances." Bowen, L.J. thought it was "sufficient to say that Fisher was only at the most employed to do certain work on and in respect to the points under the order of somebody else."

(*b*) Engineers and conductors provided with keys to a switch, with the duty of opening and fastening which no one is especially charged, for the purpose of using the spur track attached to enable trains to pass each other, are in charge of the switch ad hanc vicem. *Birmingham R. & Electric Co.* v. *Baylor* (1893) (Ala.) 13 So. 793. A railroad company is liable for negligence of a tower man, whose duty it was to move switches by levers in a tower on signals from the men on the tracks below, in throwing a different switch than that directed by a signal, an approaching train being thus caused to run on a wrong track, and collide with a switchman who gave the signal. *Welch* v. *New York, N.H. & H.R. Co.*, 176 Mass. 393, 57 N.E. 668. The court declined to hold that the fact that the negligent employé received directions from the other servants took him out of the category of vice-principals. See also *Coughlan* v. *Cambridge* (1896) 166 Mass. 268.

(*c*) In Indiana it has been held that an employé in charge of a switch is not a person "who has charge of any signal, telegraph office, switch yard," since the