traceable in two Nisi prius rulings made a few years afterwards (*b*).

(*b*) *Doctrine that different rules apply to real and to personal property.*—It was not until 1826 that the points involved in *Bush* v. *Steinman* were again discussed by a court of review. In that year the judges of the King's Bench were equally divided as to the propriety of a nonsuit which had been directed by Abbott, Ch.J., in an action brought to recover damages for an injury caused by the negligent driving of a coachman who had been sent with a pair of horses which the defendant had hired from a jobmaster to draw his carriage (*c*). The extract given in the

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(*b*) In *Sly* v *Edgley* (1806) 6 Esp. 6, the plaintiff was allowed to recover for an injury received through falling into a sewer opened by a bricklayer when he had employed jointly with others. One of the points taken by defendant's counsel was that the bricklayer was not the servant of the defendant, for whose acts he might be made responsible; that, as he was employed to do a certain work, and the mode of doing it, which had caused the injury, was entirely his own act, he only should be liable. According to the report Lord Ellenborough disposed of this contention by the remark: "It was the rule of respondeat superior; what the bricklayer did was by the defendant's direction; he had employed the bricklayer."

In *Mathews* v. *West London Waterworks Co.* (1813) 3 Campb. 403, where a verdict was obtained against a waterworks company for an injury resulting to the plaintiff from the negligence of men employed by certain pipe-layers, with whom the company had contracted for the laying down of certain water-pipes in a public street, Lord Ellenborough said he had "no doubt" as to the defendant's liability. The precise rationale of this ruling, however, is not very clearly apparent. The report is short and unsatisfactory, and the particular circumstances are not detailed. See the comments of Maule, J., in *Overton* v. *Freeman* (1852) 11 C.B. 867, 3 Car. & K. 52, 21 L.J.C.P.N.S. 52, 16 Jur. 65.

(*c*) *Laugher* v. *Pointer* (1826) 5 Barn. & C. 547, 8 Dowl. & R. 550, 4 L.J.K.B. 309. As the case was one of exceptional importance, and a difference of views developed itself among the judges of the King's Bench when the motion for a new trial was argued, it was ordered that the question submitted should be discussed before the whole body of the judges of the common law courts. The opinions finally delivered in the King's Bench, therefore, represent the results of an unusually exhaustive and searching examination of principles and authorities. It should be observed that two separate and distinct questions were suggested by the evidence, viz: (1) whether the effect of a contract of employment was to render the employer liable for the torts of the person employed, irrespective of whether the latter was a servant or a contractor, and (2) whether, supposing that no such general liability could be predicated, the coachman might not be regarded as the special servant pro tempore of the defendant, as long as he was driving the carriage. Confining our attention to the former question, with which alone we are now concerned, we find that Holroyd and Bayley, JJ., were of the opinion that the nonsuit was erroneous, their reliance being placed upon *Bush* v. *Steinman*, which was considered to have established the general propositions, that "responsibility is not confined to the immediate master of the person who committed the injury, and that the action may be brought against the person from whom the authority flows to do the act, in the negligent execution of which the injury has arisen." It should be noted that, in the case cited, the liability of the hirer of a job carriage for the negligence of the coachman who is sent with it was taken for granted by Heath, J., in his opinion. The