is liable for all breaches of contract no matter whether they depend on its servant's breach of duty or otherwise. In *Brown* v. *Boorman*, 11 Cl. & F. 1, (8 E.R. 1003), at p. 44, Lord Campbell said: "Whenever there is a contract, and something to be done in the course of the employment which is the subject of that contract, if there is a breach of a duty in the course of that employment, the plaintiff may either recover in tort or in contract."

In the case of the *Windsor & Annapolis R. Co.* v. *The Queen* (1886), 11 App. Cas. 607, the claim rested on a trespass by the Crown's servants in ejecting the suppliants from a railway over which the Crown had contracted to give them possession and control for a stated period. Lord Watson, in delivering the judgment of their lordships, said (p. 613):—"A suit for damages, in respect of the violation of the contract, is as much an action upon the contract as a suit for performance: it is the only available means of enforcing the contract in cases where, through the act or omission of one of the contracting parties, specific performance has become impossible."

In *Tobin* v. *The Queen* (1864), 16 C.B. N.S. 310, at p. 355, Earle, C. J., said "Claims founded on contracts and grants made on behalf of the Crown . . . are within a class legally distinct from wrongs."

"No civil wrong is a tort if it is exclusively the breach of a contract. The law of contracts stands by itself, as a separate department of our legal system, over against the law of torts; and to a large extent liability for breaches of contract and liability for torts are governed by different principles. It may well happen, however, that the same act is both a tort and a breach of contract . . . Thus he who refuses to return a borrowed chattel commits both a breach of contract and also the tort known as conversion: a breach of contract, because he promised expressly or impliedly to return the chattel; but not merely a breach of contract, and therefore also a tort, because he would have been equally liable for detaining another man's property, even if he had made no such contract at all." Salmond's Jurisprudence, 2nd ed., p. 435. Finch, J., in *Rich* v. *New York Central, etc., R. Co.*, 87 N.Y. at p. 390, said:—"We have been unable to find any accurate and perfect definition of a tort. Between actions plainly *ex contractu*, and those as clearly *ex delicto* there exists what has been termed a border-land, where the lines of distinction are shadowy and obscure, and the tort and the contract so approach each other, and become so nearly coincident as to make their practical separation somewhat difficult . . . Ordinarily, the essence of a tort consists in the violation of some duty due to an individual, which duty is a thing different from the mere contract obligation. When such duty grows out of relations of trust and confidence, as that of the agent of his principal or the lawyer of his client, the ground of duty is apparent, and the tort is, in general, easily separable from the mere breach of contract. But where no such relation flows from the constituted contract, and still a breach of its obligation is made the essential and principal means, in combination with other and perhaps innocent acts and conditions, of inflicting another and different injury, and accomplishing another different purpose, the question whether such invasion of a right is actionable as a breach of contract only, or also as a tort, leads to a somewhat difficult search for a distinguishing test."

How far the undertaking of a common carrier protrudes itself into the