itself sufficient to create that presumption.[3] Such evidence is equally consistent with the inference of a bailment, gratuitous, or otherwise,[4] or with the inference that the instrumentality

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cab; and that the drivers in the employ of the defendant from the time it began business, until the month of June before the accident, wore a similar inscription upon their hats.

The doctrine stated in the text was also affirmed in *Stewart* v. *Baruch* (1905) 93 N.Y. Supp. 161, 103 App. Div. 577. But there it was held that the weight of evidence shewed that the chauffeur of an automobile was using it for his own purposes.

A different doctrine was applied in *Sarver* v. *Mitchell* (1907) 35 Pa. Super. Ct. 69, where, in an action against the owner of an automobile for causing the death of a child while the automobile was in charge of the owner's chauffeur, it was held that evidence of the ownership of the machine was not sufficient in itself to charge the defendant with liability, but that the plaintiff must go further, and shew that the machine was being used in the course of the master's business.

[3]In *Baird* v. *Hamilton* 1 Sc. Sess. Cas. 797, the following remarks were made by Lord Glenlee: "There is something founded in our statute which views the mere connection of dominion as inferring a liability for injury done by anything which is our property. I do not justify the feeling, but it is a natural one, and we see it exemplified in the doctrine of deodand; and there is a great deal in the simple ground that the damage was done by the defender's horse and cart, when no one was looking after them; nor is it a sufficient defence for the party to say, "I hired a servant to attend to it. The master is liable for the carelessness of his servant. It is essential, however, that the damage should arise from the way and manner of doing the master's work. For suppose a servant takes offence at another man, and horsewhips him, though at the time he is conducting his master's cart, yet the damage is not inflicted in the doing of it—he is acting for himself, and the master is not liable. But in this case the injury was done by the defender's horse and cart, and by the negligence of his servant."

[4]*Powell* v. *McGlynn* (1902) 2 Ir. R. (C.A.) 154, 194, 224. In that case, where the plaintiff was knocked down and injured by a runaway pony attached to a trap, which had been driven by M., but was left standing by him in the street when it took fright, the pony and trap were the property of B. *Held*, by the Court of Appeal, that there was no evidence to support the finding in favour of the plaintiff, that no presumption of the relationship of master and servant arose from the fact of M. driving B.'s pony and trap; that the offer to pay expenses was made on the basis of B. having lent the pony and trap to M., and could not be treated as an admission of liability on another hypothesis; that the evidence offered being at least equally consistent with a state of facts on which B. would