the more recent American cases the ruling in *Bush* v. *Steinman*, whether viewed as one which embodies the broad principle that tortious acts committed in the course of his employment by a person who is doing work for the benefit of another are imputable to the latter, or as one which may be sustained on the ground that such a principle is applicable where the stipulated work is done on, near, or in respect to real property, has never been mentioned except with disapproval (*g*).

(*a*) *Effect of decision in Randleson v. Murray.*—During the period which saw the courts still hesitating as to the question whether a recognition should be accorded to the doctrine which draws a distinction between fixed and movable property, a case was decided which might seem to indicate a reversion to the much broader principle applied in *Bush* v. *Steinman* (*h*). From the

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premises of another, does not rest on any just principle. If the enterprise undertaken be a lawful one, and be entrusted to competent and skillful architects, there is no just reason why liability should attach to the proprietor for injuries occuring in its progress, any more than if such enterprise be executed on his own land, than if executed elsewhere."

(*g*) See *Myer* v. *Hobbs* (1876) 57 Ala. 175, 29 Am. Rep. 719; *Lawrence* v. *Shipman* (1873) 39 Conn. 586; *Kellogg* v. *Payne* (1866) 21 Iowa, 575; *Robinson* v. *Webb* (1875) 11 Bush, 464; *Eaton* v. *European & N. A. R. Co.* (1871) 59 Me. 520, 8 Am. Rep. 430; *Clark* v. *Hannibal & St. J. R. Co.* (1865) 36 Mo. 203; *Hilsdorf* v. *St. Louis* (1869) 45 Mo. 94, 100 Am. Dec. 352; *Independence* v. *Slack* (1895) 134 Mo. 66, 34 S.W. 1094; *Cuff* v *Newark & N. Y. R. Co.* (1870) 35 N.J.L. 17, 10 Am. Rep. 205; *McCafferty* v. *Spuyten Duyvil & P.M.R. Co.* (1874) 61 N.Y. 178, 19 Am. Rep. 267; *Gourdier* v. *Cormack* (1853) 2 E. D. Smith, 254; *Hughes* v. *Cincinnati & S.R. Co.* (1883) 39 Ohio St. 461; *Painter* v. *Pittsburgh* (1863) 46 Pa. 213; *Cunningham* v. *International R. Co.* (1879) 51 Tex. 503, 32 Am. Rep. 632.

(*h*) *Randleson* v. *Murray* (1838) 8 Ad. & El. 109, 2 Nev. & R. 239, 1 W.W. & H. 149, 7 L.J.Q.B.N.S. 132, 2 Jur. 324, was held liable upon the following evidence: The defendants, for the purpose of removing some barrels of flour from their warehouse, had employed one Wharton, who was a master porter in Liverpool, and who used his own tackle, and brought and paid his own men. Taylor, a master carter, was employed by Wharton to carry the barrels away; Taylor also sent his own carts, etc., and his own men, one of whom was the plaintiff. The injury to the plaintiff was occassioned by a barrel falling on him in consequence of part of Wharton's tackle failing while it was being used by Wharton's men. The defendant's counsel unsuccessfully contended that Wharton was a bailee for a special purpose, and contended that the remedy of the plaintiff was against him, not against the defendants. The subjoined extracts from the opinions will shew the grounds upon which the decision was based:

Lord Denman, Ch.J.—"Had the jury in this case been asked whether the porters, whose negligence occasioned the accident, were the servants of the defendants, there can be no doubt they would have found in the affirmative."

Littledale, J.—"It seems to me to make no difference whether the persons whose negligence occasions the injury be servants of the defendant, paid by daily wages, or be brought to the warehouse by a person employed by the defendant. The latter frequently occurs in a large place like Liverpool, where many persons exercise the occupation of a master porter. But the law is the same in each case."

Patteson, J.—"The case of a carrier is quite distinct. He has goods in his custody as bailee."