of the vehicle or horse which the actual tortfeasor was managing

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inflicted on them by him when he returned, defendant was held not to be liable. The court said: "The ground on which the plaintiffs contend that the defendant is liable for Sprague's acts in beating them with the handle of the ice-axe is that, from what Sprague said at the time, the jury were warranted in finding that he punished them in whole or in part for the purpose of making it easier for him to deliver ice from the defendant's ice cart in the future, without an assistant and with slight care of the tools, and therefore the case is brought within *Howe* v. *Newmarch*, 12 Allen, 49. But in this case Sprague's attack on the boys was an act of punishment inflicted for a past injury to his master's property, and not in doing an act which he had to do if he performed the duty owed by him to his master. It is not within the scope of the authority of a servant, to whose custody his master's property has been confided, to undertake to secure it from future injury by committing the illegal act of inflicting personal chastisement on persons who have done damage to it in the past."

In *Chicago City R. Co.* v. *Mook* (1891) 44 Ill. App. 7, it was held that, the act of the driver of a street car in slapping with his lines at a boy who was running along the street opposite and near to the car platform was not within the scope of his employment.

In *Dinsmoor* v. *Wolber* (1899) 85 Ill. App. 152, where the servant of a farmer drove his master's wagon on the wrong side of the road and brought it into collision with another vehicle, the master was held to be liable irrespective of whether the tortious act was wilful or merely negligent.

In *Eckert* v *St. Louis Transfer Co.* (1876) 2 Mo. App. 36, where a verdict in favour of a person who had been run over by defendant's wagon, the court explicitly rejected the doctrine that a master is not liable for the wilful act of his servant.

In *Schaefer* v. *Osterbrink* (1886) 67 Wis. 495, 58 Am. Rep. 875, a servant had driven his master's sleigh against the plaintiff's, an exception was taken to the refusal of the court to submit to the jury the question whether the servant's conduct was wilful and to instruct them, that, if it was wilful the plaintiff could not recover as against the master. Defendant's counsel relied upon the argument that the rule under which a carrier is liable for injuries caused to a passenger by the wilful acts of his servant, was not applicable to a case like the one under review. Discussing this contention, the court said: "Two teams upon a public highway, each with a sleigh or vehicle, coming in close proximity to each other, the driver of each most certainly owes a duty to those riding with the other. That duty is created by law, and requires each driver to proceed with care and circumspection and with reference to the shifting situation of the other. When such driver is a servant acting within the course and scope of his employment, then such duty rests upon the master as well as the servant. *Limpus* v. *L. G. O. Co.* 32 Law J. Exch. (N.S.) 34. The employer in such case, being