

This part of the case is, therefore, narrowed down to a consideration of the question whether, in the scope of his duties, Dent had general authority from the company to arrest and prosecute, where no emergency or exigency, such as above-mentioned, existed.

It is of some importance to bear in mind that the course of dealing, as set forth in the written agreements, required the plaintiff to make returns of money and of scales taken in exchange, not to Dent, but to the company; and that payments of moneys coming to the plaintiff were to be made direct by the company to the plaintiff, and not through Dent; and, according to the plaintiff's own uncontradicted evidence, the company shipped scales to him direct, and not through Dent. These circumstances indicate the limited character of Dent's authority.

I fail to see any evidence of a general authority to cause the plaintiff's arrest or to prosecute, or that Dent's duties involved in their performance the putting of the criminal law in motion. This is not a case of the agent doing an authorised act in an unauthorised manner, but of doing an act not authorised, either expressly or impliedly, by his employers.

The master's liability for the unauthorised torts of his servant is limited to unauthorised modes of doing authorised acts: Clerk & Lindsell's Law of Torts. Can. ed. (1908), p. 75.

The question of such authority has been dealt with over and over again in such cases as *Bank of New South Wales v. Owston*, cited above; *Abrahams v. Deakin*, [1891] 1 Q.B. 516; *Hanson v. Waller*, [1901] 1 K.B. 390; *Stedman v. Baker*, 12 Times L.R. 451; and also in two cases—comparatively recent—in our own Courts: *Thomas v. Canadian Pacific R.W. Co.* and *Bush v. Canadian Pacific R.W. Co.*, 14 O.L.R. 55, in which a number of the English cases are reviewed.

The onus was on the plaintiff to give some evidence which would justify the jury in finding that, from the nature of his duties or the terms of his employment, Dent had authority to institute these criminal proceedings.

In my view, he has not satisfied the obligation to give such evidence; and, following the reasoning and the conclusions arrived at in *Thomas v. Canadian Pacific R.W. Co.* and *Bush v. Canadian Pacific R.W. Co.*, and the authorities on which the judgment in these cases is based, I can only conclude that as against the defendant company the plaintiff has no right to succeed.

Judgment will, therefore, be in favour of the plaintiff as against the defendant Dent for \$1,200 and costs, and dismissing the action as against the defendant company with costs.