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And THE BAR

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A MASTER'S LIABILITY FOR ACTS OF HIS SERVANT OUTSIDE THE SCOPE OF THE EMPLOYMENT.—The reports of practically all common law jurisdictions abound in cases dealing with the power of an agent to subject his principal to tort liabilities. Sometimes these cases present the question of the principal's liability to respond in damages for tortious conduct of his agent from which some third party is the sufferer. Again the question may be whether a master is liable for some personal injury sustained by a servant at the hands of some other servant. The opinions in such cases so generally propound the broad general rule that the principal is liable for the torts of his agent where such torts amount to a negligent performance by the agent of some act or acts within the scope of the agent's usual duties¹ that we are apt uncritically to accept this broad general rule as the sum total of

* By Stanley C. Morris of the Clarksburg, W. Va. Bar.

¹ This rule is, of course, elementary and fundamental. *Qui facit per alium facit per se* finds its foundation in public policy and convenience. In the language of Best, C. J., in *Hall v. Smith*, 2 Bing. (Eng.), 156, 160, 9 E. C. L. 327, (1824); "The maxim of *respondent superior* is bottomed on this principle: That he who expects to derive advantage from an act which is done by another for him must answer for any injury which a third person may sustain by it."