

deviation is the only question of fact with regard to what it is necessary or proper to obtain the finding of a jury.

far from saying, if the servant when going on his master's business took a somewhat longer road, that owing to this deviation he would cease to be in employment of the master, so as to divest the latter of all liability; in such cases, it is a question of degree as to how far the deviation could be considered a separate journey. Such a consideration is not applicable to the present case, because here the carman started on an entirely new and independent journey which had nothing at all to do with his employment. It is true that in *Mitchell v. Craseweller*, 13 C.B. 237; 22 L.J. (C.P.) 100, the servant had got nearly if not quite home, while, in the present case, the carman was a quarter of a mile from home; but still he started on what may be considered a new journey entirely for his own business, as distinct from that of his master; and it would be going a great deal too far to say that under such circumstances the master was liable." Mellor, J., said: "Here, though the carman started on his master's business, and had delivered the wine and collected the empty bottles when he had got within a quarter of a mile of the defendant's office, he proceeded in a directly opposite direction, and as soon as he started in that direction he was doing nothing for his master; on the contrary every step he drove was away from his duty." Lush, J., said: "Here the employment was to deliver the wine, and carry the empty bottles home; and if he had been merely going a roundabout way home, the master would have been liable; but he had started on an entirely new journey on his own or his fellow-account, and could not in any way be said to be carrying out his master's servant's account, and could not in any way be said to be carrying out his master's employment." It is worthy of observation that, in the case as reported in 10 B. & S. the italicized sentence, supra, in the judgment of Cockburn, C.J., is given as follows: "I am far from saying that if the servant, while on his master's business, made a deviation from it for his own purpose he might not be liable." In the Law Journal the corresponding passage is given as follows: "I think that, if a driver, while acting on his master's business, were to make a slight deviation in order to carry some business of his own into effect, in such a case master might be liable, and that the question would be one of degree as regards the extent of the deviation." The words concerning the servant's own business which are inserted in these two versions obviously modify in a very important manner the language of the Law Reports. If the official version is correct, it will amount merely to a recognition of the doctrine stated in the preceding section, and, as this seems to be clearly the meaning of the remark of Lush, J., as to the effect of "going a roundabout way home," it would not be unreasonable to infer that this was the state of facts adverted to by the Chief Justice. On the other hand, if the words are correctly set out in the Law Journal, they can hardly be construed in any other sense than as the expression of the view that a court is not justified in setting aside a verdict in favour