

of his work to his dinner, and left his horse unattended in the street before his door. The horse ran away and damaged certain railings belonging to the plaintiff. *Held*, that it was properly left to the jury to say whether the driver was acting within the scope of his employment, and that they were justified in finding that he was. Bovill, C.J., said: "In the present case, the servant had charge of the horse and cart, and it was through his negligence and want of care, whilst acting in the course of his employment, that the accident occurred. The jury were quite at liberty to come to the conclusion they did; and I cannot doubt its accuracy." Byles, J., said: "When the defendant's servant left the horse at his own door without any person in charge of it, he was clearly acting within the general scope of his authority to conduct the horse and cart during the day." Keating, J., said: "Mr. Chambers's contention in substance is that there was such an amount of deviation by the defendant's servant from the line of his duty, that he ceased to be acting in the course of the employment of his master. It is always, however, a question of degree."

In *Williams v. Kochler* (1899) 41 App. Div. 428, 58 N.Y. Supp. 863, it appeared that the driver of one of defendant's trucks, when returning to the brewery with a load of empty kegs, deviated a couple of blocks from his direct route in order to visit a friend; that in his absence, the horses, which he had left unattended in the street, started, but after going a few yards were stopped by a stranger, who, in attempting to drive them back to the place where the driver had left them, drove the truck against a push cart, standing in the street, and overturned it, precipitating the plaintiff, who was standing on the sidewalk, against a coal box. *Held*, that the driver's deviation from the direct route to the brewery did not relieve the defendant from liability for his negligence in leaving the horses unattended in the street. The court said: "The duty of the driver's employment required him to drive the truck back to the brewery. Though he deviated from his direct road, still the conduct and management of the team on the course he took were none the less services in the course of his employment. At most his acts constituted misconduct in his employment, not an abandonment of it. The case is not at all similar to one where the servant takes his master's team for a purpose unauthorized and solely his own. In such a case the driver would not be acting in the service of his master. But here the driver did not take the truck as a vehicle or means of transporting himself the two blocks he went out of his way, but intending to go to see his friend and at the same time intending to return the truck to the brewery, as was his duty, he drove the truck over the route adopted for the very purpose of continuing his service, in taking charge of the team and truck, and not for his own purposes."

In *Lovejoy v. Campbell* (1902) 16 S.D. 231, 92 N.W. 24, a servant, employed to drive a water tank for a threshing machine, deviated, at the request of a fellow servant from his usual course to obtain oil to be used on the threshing machine. One of his horses, while standing near a tree