party. Under this theory the effect of the evidence as a whole is primarily a question for the jury, and its findings are con-

collision was one of its teams, and was driven by a person who was regularly employed in its service. The question for the jury was not whether the defendant owned the team, but whether the person who was driving it negligently was then acting for the defendant in doing the work which he was directed to do. If the servant was not then acting in the course of his employment, but was off 'on a frolic of his own,' the master would not be liable."

In *Cavanagh* v. *Dinsmore* (1878) 12 Hun. 465, the driver of a truck belonging to defendant, after having delivered some merchandise at his office had been directed to take the truck to the stable in C. street and put it up. While on his way to the stable he met another of defendant's drivers, and, at his request and as a personal favour to him, drove to H. street, about one mile distant, and took a trunk, belonging to the other driver to deliver it in F. street. The accident occurred while he was going to the latter place. *Held*, that the complaint had been properly dismissed. The court said: "The departure of the driver from the ordinary route to the stables for the purpose of doing a favour to his co-servant, as stated in the evidence, was clearly an unauthorized deviation and not within the scope of his duty. He cannot be said, within the authorities, to have been acting in the service of the defendants while engaged in going for the trunk and valise of his co-servant and in taking them to their destination. The act was not only without the authority, but without the knowledge or consent of the defendant or of any superior officer of the driver. It is well settled that the master is not liable for injuries sustained by the negligence of his servant while engaged in an unauthorized act, beyond the scope and duty of his employment, for his own or another's purposes, although the servant is using the implements or property of the master in such unauthorized act."

In *Stone* v. *Hills* (1877) 45 Conn. 47, 29 Am. Rep. 635, H. sent his servant and team to deliver a load of paper to T., four miles distant, directing his to return thence by a particular route, getting a load of wood on his way. When he arrived, T. requested him to go on with the paper to a station four miles farther, and there get some freight, pay the freight bill, and bring the freight to him. The servant, having driven to the station, left his horses unhitched, and they ran away and injured the property of S. *Held*, that the servant was not to be regarded as at the time in the employment of H., and that H. was not liable. The court said: "In the case before us the servant left the employers' premises under precise instructions as to the place to which their team was to be driven and as to the merchandize to be transported; and under instructions equally precise as to the route to be taken in returning and as to what he should bring home. These therefore covered the entire period of his contemplated absence; nothing was left to his option or discretion; nothing to chance; and in fact the deviation was not occasioned or even suggested