

received to place it in a certain yard;⁶ where sacks of bran which the driver of a delivery wagon had temporarily deposited by the roadside frightened a passing horse.⁷

⁶ *Powell v. Deveney* (1849) 3 Cush. 300. There the shafts of the truck left in the street were thrown against the plaintiff by another truck, not belonging to the defendant. The court said: "The servant was rightfully in possession of the truck and being thus rightfully in possession and about his master's business, the master must be responsible for his neglect in improperly leaving the truck in the street. The defendant can no more be exempted from liability, because his servant disobeyed his orders in not placing his truck on the lot provided for it, than a master can be exempted from liability, for damage done by his servant in driving carelessly against a carriage, when he has been ordered to drive carefully, and to avoid coming in contact with any carriage. The servant being about the business of his master, the master must be responsible for his acts, and cannot exempt himself by any order he may give the servant."

⁷ In *Phelon v. Stiles* (1876) 43 Conn. 426, (verdict for plaintiff sustained). There the driver, after having laid down the sacks had gone up a side road to deliver a quantity of flour, intending to take the bran on his return, his object being to save an unnecessary transportation of the bran, and thus to finish the delivery sooner and get time to attend to some private business of his own. Discussing the contention of the defendant that the servant's acts were done on his own account, the court said: "But what business of his own was he then doing? He was not then attending to private business in going to Hartford. That was to be undertaken later in the day. He left the bags to expedite the delivery. Did it make the business his own because he despatched it more speedily than it would naturally have been done? He was sent by the defendant to deliver the flour and bran. Did he do anything else than deliver them? His whole object in leaving the bran by the side of the road was to gain time. Suppose he had driven the horse with such speed as amounted to carelessness in order to gain time, and had injured a person by so doing, would he be transacting his own business while driving so rapidly, so that the defendant would not be liable? Suppose he had left the bran out of consideration for his horse, and the same result had followed, would the defendant be excused? He was under the necessity of taking the bran to Mr. King's, or of leaving it by the side of the road until his return; suppose he had taken the latter course without any special object in view, would it make any difference in the case? We think all that can be said of the matter is, that Babcock performed the defendant's business in delivering the bran in a shorter time than he would have done, had he not intended to go to Hartford later in the day; and certainly the rapidity with which the business was trans-