of his authority.[2]

not to drive the horse was one of the original limitations which had been placed by himself upon the authority which he conferred upon the servant, and one of the conditions of his employment; that by disobeying such instructions, he could not extend and bring inside the sphere of his duties the thing which was prohibited, and which marked the scope and fixed the extent of the servant's employment. Defendant insists that when the terms of the employment had been fixed, and by the same Weeden had been expressly prohibited (*ab initio*) from driving the horse, it could not be pretended, (when he undertook afterwards to drive her), that he was doing so on the master's business, or for his interest. On the contrary, it must be conclusively presumed that he was driving the horse for his own pleasure. Plaintiff's claim that the defendant having told the servant not to drive the horse, and then told him to exercise her without limiting him to any specific method of exercising her only by leading or riding, necessarily left the servant under the belief that he was to exercise her by driving as the only appropriate or expedient way in which she could be exercised at all or the only way the horse was accustomed to be used. We do not think the testimony justifies the taking of this position. Weeden was prohibited from the beginning from driving the animal, and that prohibition was never removed. On the contrary it was continuously reiterated. Weeden could not possibly have made any mistake on that subject. Even had he made a mistake, it was one not justified by the facts." It is not apparent why the defendant should have taken his stand upon the disputable ground of the servant's scope of authority, when he might, in view of the facts, have resorted to the defence that the servant had taken the vehicle out for his own pleasure. See § 10, *post*.

In *Dalrymple* v. *McGill* (1813) Hume's Sc. Sess. Cas. 387, the master was held not to be liable for the act of a servant who, without orders, took a horse of his neighbour, and rode it so hard, that the horse was permanently injured.

[2]In *Bowler* v. *O'Connell* (1894) 27 L.R.A. 173, 44 Am. St. Rep. 359, 162 Mass 319, 38 N.E. 498, the defendants were held not to be liable for injuries resulting to a child from the kick of a horse on which he had been invited to ride by one a teamster who was leading it to a water-tub. The court said: "There was nothing to shew that it was any part of their business, or that it was their habit or custom, to furnish horses or colts to ride, or to allow boys to ride upon them, or that they in any way ever authorized or permitted Frank to do this. Under this state of things, we are unable to see how the invitation by Frank to the plaintiff to ride upon the colt, although given while Frank was engaged in his employment, can be considered to be an act done in the course of such employment, or for the purpose of doing the business of his masters. The true test of liability on the part of the defendants is this. Was the invitation given in the course of doing their work, or for the purpose of