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TAXATION — MULTIPLE TAXATION OF INTANGIBLES BY STATES — Among the assets of the estate of respondent's decedent, domiciled at the time of his death in New York, were shares of common and preferred stock of the Union Pacific Railroad Company, a Utah corporation, which kept its stock books and records and maintained its transfer agents in New York. The stock certificates were never in Utah, but had been in possession of the decedent in New York at the time of his death and at the time of suit were held by respondents as executors of the estate then being probated in New York. At the date of decedent's death, a statute [1] allowed as a credit against the New York estate tax the amount of any constitutionally valid estate or inheritance tax paid within three years after decedent's death to any other state. Respondents sought a declaratory judgment in a Utah court that the transfer of shares was not subject to tax under the Utah inheritance tax.[2] The Supreme Court of Utah, following *First National Bank v. Maine*,[3] affirmed the holding of the trial court that the transfer of shares was not subject to tax by Utah under the provisions of its inheritance tax law.[4] *Held*, on certiorari, Utah may levy a tax upon the transfer of shares of corporate stock as a return for benefits conferred, since there is no constitutional rule of immunity from taxation of intangibles by more than one state and jurisdiction to tax shares of stock is not restricted to the domiciliary state. *State Tax Commission of Utah v. Aldrich*, 316 U. S. 174, 62 S. Ct. 1008 (1942).[4]

This decision marks the end of a short-lived attempt by the Supreme Court to settle by resort to the due process clause of the Fourteenth Amendment the conflicting claims of the states of domicil of the creditor and domicil of the debtor to tax the transfer of intangible property. Prior to 1930, the leading case approving taxation of the transfer of intangibles by the state of the debtor's domicil was *Blackstone v. Miller*,[5] in which the Court, speaking through Justice Holmes, held that a state may without violation of the Fourteenth Amendment tax the transfer, under the will of a nonresident, of debts due the decedent by its citizens. The theory followed by the Court was that both states whose laws had to be invoked to effect complete transfer conferred rights for which they might exact a quid pro quo—the transfer depending on the law of the state of decedent's domicil and the validity of the debt depending on the law of the state of debtor's domicil.[6] This theory, permitting the taxation of intangible property by more

[1] 59 N. Y. Consol. Laws (McKinney, 1937), "Tax Law," § 249-o.

[2] Utah Rev. Stat. (1933), §§ 80-12-2, 80-12-3.

[3] 284 U. S. 312, 52 S. Ct. 174 (1932).

[4] Reversing Aldrich v. State Tax Commission, (Utah 1941) 116 P. (2d) 923. The principal case is also noted in 51 YALE L. J. 1380 (1942).

[5] 188 U. S. 189, 23 S. Ct. 277 (1903).

[6] "No doubt this power on the part of two States to tax on different and more or less inconsistent principles leads to some hardship. It may be regretted, also, that one and the same State should be seen taxing on the one hand according to the fact of power, and on the other, at the same time, according to the fiction that, in successions after death, *Mobilia sequuntur personam* and domicil governs the whole. But these inconsistencies infringe no rule of constitutional law." Blackstone v. Miller, 188 U. S. 189 at 204-205, 23 S. Ct. 277 (1903).

than one state, was substantially rejected [7] by a series of decisions [8] culminating in *First National Bank v. Maine* [9] in 1932. These cases followed the theory that transfer of specific property from the dead to the living is a single event which by its nature cannot take place in more than one state at one and the same time. Since this event is effected under the laws and within the limits of a particular state, it is in contravention of the due process clause of the Fourteenth Amendment to permit jurisdiction to tax this single event to be distributed among a number of states. This theory represents the application to intangibles of the same formula earlier applied to tangible property—taxation at an assumed situs.[10] By resort to the maxim "*mobilia sequuntur personam*," the result is reached that only the state of domicil of the creditor may impose a tax on the transfer of intangibles.[11] It is clear from this series of cases that the Court's reliance on the "*mobilia*" maxim, which is but a fiction, was merely a means to achieve a desired end—restriction of taxation of intangibles to one state on

[7] Brown, "The Present Status of Multiple Taxation of Intangible Property," 40 MICH. L. REV. 806 (1942).

[8] Farmers' Loan & Trust Co. v. Minnesota, 280 U. S. 204, 50 S. Ct. 98 (1920) (state and municipal bonds and certificates of indebtedness); Baldwin v. Missouri, 281 U. S. 586, 50 S. Ct. 436 (1930) (bank deposits, negotiable bonds, and promissory notes); Beidler v. South Carolina Tax Commission, 282 U. S. 1, 51 S. Ct. 54 (1930); (indebtedness in the form of open unsecured account). These cases all involved taxes on the transfer of property on the death of nonresident owners, but the Court had pointed out that the same principles govern jurisdiction to impose property and state inheritance or estate taxes, and to impose either tax without such jurisdiction is a denial of due process. Frick v. Pennsylvania, 268 U. S. 473, 45 S. Ct. 603 (1925); First National Bank v. Maine, 284 U. S. 312, 52 S. Ct. 174 (1932).

[9] 284 U. S. 312, 52 S. Ct. 174 (1932).

[10] By application of this formula to tangible personal property, the Court held in Union Refrigerator Transit Co. v. Kentucky, 199 U. S. 194, 26 S. Ct. 36 (1905), that tangible property permanently situated outside the state of the owner's domicil could be taxed consistently with due process of law only by the state of permanent location. This rule was applied to inheritance taxation in Frick v. Pennsylvania, 268 U. S. 473, 45 S. Ct. 603 (1925), holding that the state of domicil of the decedent could not impose an inheritance tax on tangible property permanently located outside the state. Application of the formula of taxation at an assumed situs, however, has different results in the case of intangible property—state of domicil of the creditor in the case of intangibles and state of permanent location in the case of tangibles.

[11] This new theory was clearly opposed to Blackstone v. Miller, 188 U. S. 189, 23 S. Ct. 277 (1903), and cases based upon it. Accordingly, in Farmers Loan & Trust Co. v. Minnesota, 280 U. S. 204, 50 S. Ct. 98 (1930), the Court expressly overruled Blackstone v. Miller, regarding it as inconsistent with the views expressed by the Court (1) that no state may tax property not within its jurisdiction without contravening the Fourteenth Amendment, Union Refrigerator Transit Co. v. Kentucky, 199 U. S. 194, 26 S. Ct. 36 (1905); (2) that no state may tax the testamentary transfer of property wholly beyond the reach of its power, Rhode Island Hospital Trust Co. v. Doughton, 270 U. S. 69, 46 S. Ct. 256 (1926); and (3) that no state may impose death duties upon the value of tangible property permanently located outside the state, Frick v. Pennsylvania, 268 U. S. 473, 45 S. Ct. 603 (1925).

grounds of policy.[12] It is significant, in light of the position taken in the principal case, that the desirability of resorting to the Fourtenth Amendment to achieve this end did not go unchallenged within the Court itself. Vigorous dissenting opinions in three of the cases contended that the Fourteenth Amendment did not prohibit the same transaction being taxed by two states if the laws of both had to be invoked to give it effect—the quid pro quo doctrine of *Blackstone v. Miller*.[13] The principal case, by expressly overruling *First National Bank v. Maine*, re-establishes as the prevailing view of the Court the earlier quid pro quo theory and rejects the view that the Fourteenth Amendment embraces any rule of immunity from taxation of intangibles by more than one state.[14] The Court cites with approval the argument of the minority in *First National Bank v. Maine* [15] that resort to the Fourteenth Amendment as the instrument of

[12] In Farmers Loan & Trust Co. v. Minnesota, 280 U. S. 204, 50 S. Ct. 98 (1930), the Court refers to the inevitable tendency of the doctrine of Blackstone v. Miller, 188 U. S. 189, 23 S. Ct. 277 (1903), to disturb good relations among the states by leading to competitive struggles to tax transfers of intangibles. Again, "Practical considerations of wisdom, convenience and justice alike dictate the desirability of a uniform general rule confining the jurisdiction to impose death transfer taxes as to intangibles to the state of domicile. . . ." First National Bank v. Maine, 284 U. S. 312 at 331, 52 S. Ct. 174 (1932).

[13] In Farmers Loan & Trust Co. v. Minnesota, 280 U. S. 204 at 218, 50 S. Ct. 98 (1930), Justice Holmes, in dissenting opinion concurred in by Justice Brandeis, said, "A good deal has to be read into the Fourteenth Amendment to give it any bearing on this case. The Amendment does not condemn everything that we may think undesirable on economic or social grounds." Justice Stone, although concurring in the majority opinion on the ground that the benefit conferred by the state of the debtor's domicil was not sufficient to establish jurisdiction, said, "Hitherto the fact that taxation is 'double' has not been deemed to affect its constitutionality, and there are, I think, too many situations in which a single economic interest may have legal relationships with different taxing jurisdictions as to justify its taxation in both, to admit of our laying down any constitutional principle broadly prohibiting taxation merely because it is double, at least until that characterization is more precisely defined." 280 U. S. at 215. In Baldwin v. Missouri, 281 U. S. 586, 50 S. Ct. 436 (1930), Justice Holmes again dissented, joined by Justices Brandeis and Stone, and the latter wrote a separate dissenting opinion, arguing that payment of a tax in two places for benefits received from the two jurisdictions is not so arbitrary as to violate constitutional restrictions. In Beidler v. South Carolina Tax Commission, 282 U. S. 1 at 10, 51 S. Ct. 54 (1930), Justices Holmes and Brandeis acquiesced, "without repeating reasoning that did not prevail with the Court." In First National Bank v. Maine, 284 U. S. 312 at 334, 52 S. Ct. 174 (1932), Justice Stone in a dissenting opinion concurred in by Justices Holmes and Brandeis, said, "Even if it be assumed that some protection from multiple taxation, which the Constitution has failed to provide, is desirable, and that this Court is free to supply it, that result would seem more likely to be attained, without injustice to the states, by familiar types of reciprocal state legislation, than by stretching the due process clause to cover this case."

[14] Although the Court had before it only the question of taxation of the transfer of shares of stock by the will of a nonresident decedent, the theory developed is sufficiently broad to cover cases involving other classes of intangibles.

[15] 204 U. S. 312 at 334, 52 S. Ct. 174 (1932).

reform in regard to multiple taxation of intangibles may well create more difficulties than it removes. Intangibles are thus restored "to the constitutional status which they occupied up to a few years ago."[16] The majority decision, validating taxation by Utah of the transfer of shares by a nonresident decedent, is grounded on the "intimate relationship" of Utah to the corporation and its shares. The benefits conferred by Utah, for which a return may be exacted, consist of giving corporate existence to the Union Pacific Railroad Company, defining the nature and extent of shareholders' interests, and affording protection for shareholders' rights. In answer to the objection that the principal decision will disturb good relations among the states, the Court argues that the wisdom or expediency of a tax measure is for the legislative branch of government to determine.[17] The rejection of a constitutional rule of immunity from taxation of intangibles by more than one state and acceptance of the quid pro quo theory by the Court in the principal case were foreshadowed by several preceding decisions.[18] The reaffirmance of the quid pro quo theory, however, like its rejection a decade earlier, does not go unchallenged. In a lengthy and well-reasoned dissent Justice Jackson finds in the Court's decision nothing "more useful than the proverbial leap from the frying pan into the fire."[19] The jurisdiction of Utah to tax succession to the stock is attacked on the ground that the value of Union Pacific Railroad stock comes primarily from the carrier's operation in interstate commerce, a privilege accorded it by the United States and not the state of Utah, with the result that any benefit or opportunity afforded to the railroad's shareholders by Utah through issuance of a charter or transfer of shares permitted by its law is negligible in comparison with the value Utah is permitted to tax. The dissenting opinion emphasizes certain practical effects of the majority decision: (1) intensification of the already unwholesome friction between states in the competitive struggle to subject transfers of intangibles to death duties, giving an impetus to federal absorption of this source

[16] Principal case, 62 S. Ct. 1008 at 1012.

[17] ". . . even though we believed that a different system should be designed to protect against multiple taxation, it is not our province to provide it. . . ." Principal case, 62 S. Ct. 1008 at 1012.

[18] In Curry v. McCanless, 307 U. S. 357 at 373, 59 S. Ct. 900 (1939), the Court found it "impossible to say that taxation of intangibles can be reduced in every case to the mere mechanical operation of locating at a single place, and there taxing, every legal interest growing out of all the complex legal relationships which may be entered into between persons. . . . The Fourteenth Amendment cannot be carried out with such mechanical nicety without infringing powers which we think have not yet been withdrawn from the states." Again, in Wisconsin v. J. C. Penney Co., 311 U. S. 435 at 444, 61 S. Ct. 246 (1940), the Court gave its approval to the quid pro quo theory when, speaking through Justice Frankfurter, it said, "A state is free to pursue its own fiscal policies, unembarrassed by the Constitution, if by the practical operation of a tax the state has exerted its power in relation to opportunities which it has given, to protection which it has afforded, to benefits which it has conferred by the fact of being an orderly, civilized society." See also Graves v. Elliott, 307 U. S. 383, 59 S. Ct. 913 (1939); Commonwealth v. Stewart, 338 Pa. 9, 12 A. (2d) 444 (1940), affirmed 312 U. S. 649, 61 S. Ct. 445 (1941); Graves v. Schmidlapp, 315 U. S. 657, 62 S. Ct. 870 (1942).

[19] Principal case, 62 S. Ct. 1008 at 1014 (1942).

of revenue; (2) subjection of intangible property to more sources of taxation than other wealth, placing it at a competitive disadvantage in relation to other investments; (3) expense (other than the tax itself) and annoyance to taxpayers and delays in the settlement of estates; (4) imposition of capricious burdens on estates, often in inverse ratio to ability of the estate to pay, since those with larger estates will find ways of minimizing tax liability; (5) undermining of graduation of tax burdens in accordance with ability to pay, since no state will be free to use its taxing power as an instrument of social policy because of the possibility of unpredictable assessments by other states; and (7) difficulty of setting limits on the quid pro quo doctrine.[20] By the reasoning of the majority, these difficulties need not concern the Court, whose function is not to shape economic policy in terms of its own economic or social beliefs. So far as multiple taxation is concerned, it is arguable that economic difficulties should be ironed out by legislative bodies.[21] But whether the present decision is any more an abandonment of matters of economic policy by the Court than the *First National Bank* case which it overrules is indeed doubtful.[22]

[20] On this point, it is suggested that since the due process clause is no more specific as to taxation of tangible than intangible property, the Court's decisions as to multiple taxation of tangible property may require re-examination. Principal case, 62 S. Ct. 1008 at 1021 (1942).

[21] The dissenting opinions in Baldwin v. Missouri, 281 U. S. 586, 50 S. Ct. 436 (1930), and First National Bank v. Maine, 284 U. S. 312, 52 S. Ct. 174 (1932), both indicated that any solution to the problem of multiple taxation should come through reciprocal state legislation rather than by stretching the due process clause. The majority in the principal case likewise seem inclined to throw the problem into the lap of the legislative branch of government. It should be recognized, however, that this solution is not an easy one. Legislative action would likely be slow and result in compromise because of the difficulties of reconciling divergent economic interests. A not unlikely end-result would be centralization of this source of revenue in the federal government. Reciprocal exemptions had been adopted by a substantial number of states when the First National Bank v. Maine decision eliminated the need for such legislation. At the present time, of the 47 states imposing inheritance or estate taxes, 16 do not tax transfers of intangible property of nonresidents; 21 impose such taxes but grant reciprocal exemptions, sometimes qualified; 2 tax transfers of intangibles acquiring a business situs without provision for reciprocal exemptions; and 8 impose a tax on transfers of intangibles of nonresidents without provision for reciprocal exemptions. 4 C.C.H. INHERITANCE, ESTATE, AND GIFT TAX SERVICE, 7th ed., pp. 81,045-81,048 (1942). It is significant that the latter group is made up largely of debtor states, hence there will likely remain a minority of states whose immediate economic interests seem to dictate taxation of transfers of intangibles of nonresidents without reciprocal exemptions. This group of states is likely to block complete solution of the problem through the medium of uniform state legislation.

[22] In his dissenting opinion, Justice Jackson suggests, "The difficulty is that the concept of jurisdiction is not defined by the Constitution. Any decision which accepts or rejects any one of the many grounds advanced as jurisdictional for state taxing purposes will read into the Constitution an inclusion or an exclusion that is not found in its text. To read into the Constitution the Court's present concept of jurisdiction through charter granting, and to hold that it follows that the Constitution does not prohibit this tax, is to make new law quite as certainly as to adhere to the concept of jurisdiction according to the decedent's domicile and to hold that the Constitution therefore does prohibit it." 62 S. Ct. 1008 at 1021 (1942).

TORTS — VIOLATION OF TRAFFIC STATUTE AS NEGLIGENCE — CAUSATION — Plaintiff, a seven-year-old child, sued for injuries received while she was recrossing the street to defendant's automobile after mailing a letter for defendant. Defendant had double parked, on the east side of the street headed north, to wait for plaintiff, in violation of the law against double parking.[1] Plaintiff left the curb on the west side of the street some fifteen feet north of the crosswalk and was hit by the car of the second defendant traveling south. *Held*, for the plaintiff on the grounds that the double parking of the car was unlawful and constituted an act of negligence which was the proximate cause of the plaintiff's injuries. *Harrison v. Gamatero*, (Cal. App. 1942) 125 P. (2d) 904.

In holding that the violation of the double parking statute by the defendant was negligence, it seems that the court has departed from the logical view that not every violation of a statute is negligence. It is not enough to show that the defendant has breached a duty.[2] The duty must be one owing to the plaintiff; and such a duty is created by statute only when the plaintiff is one of the class of persons which the statute was designed to protect, and when the harm resulting is the type of harm which the legislature has sought to avoid.[3] It seems highly improbable that the purpose of the statute in the principal case was to protect persons returning to waiting cars.[4] More likely it was designed to pre-

[1] Cal. Vehicle Code (Deering, 1938), § 586 (h).

[2] Akers v. Chicago, St. P., M. & O. Ry., 58 Minn. 540 at 544, 60 N. W. 669 (1894). "Even if a defendant owes a duty to some one else, but does not owe it to the person injured, no action will lie."

[3] HARPER, TORTS 193 (1933), "The plaintiff, to come within the protection of the statute must show (a) that he is one of the general class of persons intended to be protected by the prohibition of the unreasonable risk involved in the defendant's conduct, (b) that the harm sustained by him is of the general type of harms which made the defendant's conduct unreasonable—in these cases, the type of risk which the legislature sought to avoid. . . ." Kelly v. Henry Muhs Co., 71 N. J. L. 358, 59 A. 23 (1904), statute requiring employers to protect elevator shaft was for protection of employees and not a fireman; Armstrong v. Sellers, 182 Ala. 582, 62 So. 28 (1913), fact that defendant's automobile with which plaintiff was run down was not registered afforded no basis for defendant's liablity. See also Black v. Moree, 135 Tenn. 73, 185 S. W. 682 (1916); Dervin v. Frenier, 91 Vt. 398, 100 A. 760 (1917). Compare the decision in principal case with Denton v. Missouri, K. & T. Ry., 90 Kan. 51 at 54, 133 P. 558 (1913). In that case, plaintiff was riding in a car which was hit by a switch engine on the crossing of defendant railway. The court held that the plaintiff could not base a negligence action on the defendant's violation of a statute prohibiting a railway company to allow cars to stand upon a street under certain circumstances. "Evidently the purpose of the statute was to prevent obstacles to travel, not to sight; the resulting injury in the mind of the legislature was that resulting from delay in crossing, not from collisions with a moving train." See notes, 16 A. L. R. 1108 (1922); 43 A. L. R. 1153 (1926); 54 A. L. R. 374 (1928); 61 A. L. R. 1190 (1929).

[4] In Falk v. Finkleman, 268 Mass. 524, 168 N. E. 89 (1929), defendant parking in violation of ordinance was not held liable when a fire truck ran into his car and pushed it on the sidewalk injuring plaintiff there. See Denson v. McDonald, 144 Minn. 252, 175 N. W. 108 (1919). Compare the decision in principal case with Shelden v. Wichita Railroad and Light Co., 125 Kan. 476, 264 P. 732 (1928), where

vent congestion of traffic. Therefore, the duty imposed upon the defendant was not a duty towards a person in the plaintiff's position. If such an interpretation is accepted, the violation of the statute would not in itself be negligence as to the plaintiff.[5] But even treating the violation of the statute as constituting negligence, it is doubtful that such negligence was the proximate cause of the plaintiff's injuries. Before there can be proximate or legal causation, it must be found that the defendant's acts were the cause in fact of the plaintiff's injuries.[6] The court felt that the defendant acted unreasonably in double parking while waiting for the plaintiff to mail a letter, since under such circumstances the plaintiff would be inclined to hurry back across the street. But it is debatable whether the double parking of the car on one side of the street was the actual cause of the plaintiff's being struck by the car of the second defendant. If the injury to the plaintiff would have occurred even if the defendant had not been negligent, the defendant's negligence is not the cause in fact of the injury.[7]

recovery was denied under similar circumstances. Plaintiff walked into the side of a passing automobile after she came from behind a standing street car which was in a placed prohibited by ordinance. The court held the ordinance was a traffic ordinance, enacted to facilitate movement of traffic, not to provide pedestrians and automobile drivers with opportunity for observation.

[5] HARPER, TORTS 188 (1933): "It is not every violation of a statute or ordinance, of course, that constitutes negligence or gives an individual harmed thereby, a right of action in tort." See also, Di Caprio v. New York Central R. R., 231 N. Y. 94, 131 N. E. 746 (1921); Mansfield v. Wagner Electric Mfg. Co., 294 Mo. 235, 242 S. W. 400 (1922); Carter v. Redmond, 142 Tenn. 258, 218 S. W. 217 (1920), holding an act requiring drivers to come to a full stop before crossing railroad tracks was not intended to protect travelers using the highway, and a person on the highway who was injured could not claim negligence in motorist's failure to comply with the law; Taylor v. Lake Shore & Mich. S. R. R., 45 Mich. 74, 7 N. W. 728 (1881); Anderson v. Settergren, 100 Minn. 294, 111 N. W. 279 (1907); Grand Trunk Ry. v. Ives, 144 U. S. 408, 12 S. Ct. 679 (1892). For citations of analogous cases, see 39 YALE L. J. 908 (1930).

[6] HARPER, TORTS, § 109 (1933).

[7] In Ford v. Trident Fisheries Co., 232 Mass. 400, 122 N. E. 389 (1919), plaintiff sued to recover for death of person who was drowned when he fell overboard from defendant's boat on which he was employed. Plaintiff claimed that negligence of defendant in having lifeboats lashed to the boat was the cause of death. Recovery was denied inasmuch as deceased was never again seen after going overboard and so could not have been saved even if lifeboats had been properly suspended. Lindsay v. Cecchi, 3 Boyce (26 Del.) 133, 80 A. 523 (1911), held that operation of an automobile by a person without a license is negligence per se, but such negligence is not in itself sufficient to justify a recovery for injuries to a child struck by the automobile, there being no actual connection between the absence of the license and the injury. The decision in the principal case is suggestive of the Massachusetts doctrine that an unregistered automobile is an outlaw on the highway, and that the owner is liable for direct injury resulting from its use, even though such injury could not have been contemplated as a result of the failure to register the automobile legally. Di Franco v. West Boston Gas Co., 262 Mass. 387, 160 N. E. 326 (1928); Fairbanks v. Kemp, 226 Mass. 75, 115 N. E. 240 (1917). See also Sullivan v. Boone, 205 Minn. 437, 286 N. W. 350 (1939); Weeks v. McNulty, 101 Tenn. 495, 48 S. W. 809 (1898); Powers v. Standard Oil Co., 98 N. J. L. 730, 119 A. 273 (1923); Schoonmaker v. Kaltenbach, 236 Wis. 138, 294 N. W. 794 (1940); Sprayberry v. Snow, 59 Ga. App.

Applying this test to the present case, can it be said that the child would not have been hit by the negligent driver if the defendant had not double parked? If the defendant had parked lawfully, the negligent driver coming from the other direction, failing to look ahead and see the child, would in all probability have hit her anyway. However, even if the double parking was the cause in fact, it must still be the proximate cause of the plaintiff's injuries before liability for such negligence can be imposed upon the defendant. Since the action of the motorist who struck the plaintiff was an intervening factor, the question is whether or not such action was foreseeable.[8] In this situation, it is hardly reasonable to say that on double parking the defendant should have foreseen, as a likely result, the other car's striking the plaintiff upon her attempt to recross the street. Examining the case upon these principles, the decision seems unsound.

744, 1 S. E. (2d) 756 (1939); Zuvich v. Ballay, (La. App. 1933) 149 So. 281; Bracy v. Lund, 197 Wash. 188, 84 P. (2d) 670 (1938). Other cases are referred to in 27 MICH. L. REV. 116 (1928).

[8] Hale v. Pacific Tel. & Tel. Co., 42 Cal. App. 55 at 58, 183 P. 280 (1919). "The rule, as we understand it, applicable to such cases, is that where the original negligence of a defendant is followed by an independent act of a third person which results in a direct injury to a plaintiff, the negligence of such defendant may, nevertheless, constitute the proximate cause thereof if, in the ordinary and natural course of events, the defendant should have known the intervening act was likely to happen; but if the intervening act constituting the immediate cause of the injury was one which it was not incumbent upon the defendant to have anticipated as reasonably likely to happen, then, since the chain of causation is broken, he owes no duty to the plaintiff to anticipate such further acts, and the original negligence cannot be said to be the proximate cause of the final injury."