which had a peculiarly historical origin in cases of trespass by domestic animals (see *Tillett* v. *Ward,* L. R. 10 Q. B. D. 17), which later was extended to apply to the use of land (*Rylands* v. *Fletcher, supra*), and which was finally extended in its application to the use of inanimate chattels (*Jones* v. *Festiniog Ry.,* L. R. 3 Q. B. 733 and *Powell* v. *Fall* L. R. 5 Q. B. 597); a doctrine which, in its extended application, "would impose a penalty upon efforts, made in a reasonable, skilful, and careful manner, to rise above a condition of barbarism." Doe, J., in *Brown* v. *Collins,* 53 N. H. 442. In a case similar to the principal one the Supreme Court of Tennessee said that "the degree of care required of one * * * with a steam thresher, in respect to setting fires, is the same as that devolved upon railway companies in the use of their engines." *Martin* v. *McCrary,* 115 Tenn. 316; 1 L. R. A. (N. S.) 530. That duty as laid down by the same court in a prior case is that "a degree of care and prudence commensurate with the danger to which property is exposed by them" must be used. "And when they have them properly constructed and equipped with spark arresters and appliances of the latest and most approved character to prevent the escape of coals and cinders, in good repair, and carefully and skillfully handled, * * * they are not liable for property unavoidably destroyed by escaping sparks and cinders." *Louisville & N. Ry.* v. *Fort,* 112 Tenn. 432. In this matter the Tennessee court exemplifies the weight of authority in America which asserts, while the English courts repudiate, a hornbook principle of the common law, *viz.,* that "blame must be imputable as a ground of responsibility for damage proceeding from a lawful act." *Marshall* v. *Welwood,* 38 N. J. L. 339.

INDEPENDENT CONTRACTOR — LIABILITY TO INJURED THIRD PARTY — PROXIMATE CAUSE.—Testatrix of a party killed by the collapse of a defective county bridge, sues the company which, as independent contractor, constructed the bridge for the county some five years before time of suit. Negligence and knowledge of the defects are admitted by defendant's demurrer to the complaint. *Held,* that in the absence of a showing that fraud, deception or intentional concealment of defects was practiced by the contractor in obtaining acceptance of the bridge by the county, such acceptance was the intervention of an independent human agency which had the effect of breaking the chain of causation between any negligence of the contractor and the death of the third party, and defendant is therefore not liable to plaintiff in this action. *Travis* v. *Rochester Bridge Co.* (Ind., 1919), 122 N. E. 1.

In exposition of its reasoning that acceptance by the county amounts to the actual intervention of an independent human agency, the opinion of the principal decision holds, *inter alia,* that, "In the class of cases to which the one at bar belongs the work is generally done by the contractor in accordance with plans furnished by the party letting the contract or under his direction and supervision." But the court's comment is certainly not wholly in harmony with the legal conception of an independent contractor as, "One who contracts to do a specific piece of work, furnishing his own assistants, and executing the work either entirely in accordance with his own ideas, or in accordance with a plan previously given him by the person for whom the work is

done, without being subject to the orders of the latter in respect to the details of the work". 26 Cyc. 970. The county was, then, not bound to exercise supervision and there is nothing in the facts which indicates that the work was not directed solely by the contractor. The county did not consciously accept the defects of the bridge nor take to itself the negligence of the independent contractor. What happened in fact was a mere change of possession and on this topic BIGELOW, CASES ON TORTS, 618, says: "If the injury occurs by reason of the defendant's default, what matters it that he had not control over the thing at the time? The change of control is nothing, unless the original defect has been increased thereby, so that it cannot be proved that the original negligence of the defendant caused the damage." Granting, however, that the acceptance by the county and its subsequent failure to repair the bridge constituted the intervention of an independent responsible agency the question naturally presents itself: Does such intervention relieve the contractor of the original liability which an application of the doctrine of proximate cause inferentially admits? It would seem that the conduct of the county can hardly be classed as other than that which the contractor was under obligation to anticipate and endeavor to prevent. He knew of the defects and was also aware that they were not discoverable upon reasonable inspection. Under these circumstances, it appears to be neither illogical nor unjust to hold that the contractor was bound to foresee the almost inevitable result of his own neglect. Acceptance by the county, subsistence of the inherent weaknesses of the bridge and consequent accidents, were in view of the facts and from the defendant's standpoint, sequels "likely to happen in the ordinary course of events." *Stone* v. *Boston, etc., Railway Co.*, 171 Mass. 536, 540.

INTOXICATING LIQUORS—REED AMENDMENT—POWER OF STATE OFFICERS TO ARREST PERSONS CARRYING LIQUOR THROUGH DRY STATES.—Defendant was indicted for carrying liquor into Virginia a dry state. The evidence furnished in the bill of particulars showed that he was transporting liquor on a through passenger ticket from Maryland to North Carolina. He was arrested while the train stopped temporarily at Lynchburg, Va. On a motion to quash, it was *held* that the Reed Amendment, rightly construed, did not embrace the act which it was admitted that the prosecution could prove. *United States* v. *Gudger* (U. S. Supreme Ct., No. 408, April 14, 1919).

The court said that the terms of the Reed Amendment did not prohibit the movement of liquor in interstate commerce through a dry state to another state. The temporary stop at Lynchburg, Va., was not enough to give the liquor a situs therein or to interrupt the interstate commerce character of the trip. Similarly it has been held that sheep being driven along the road from one state to another were in interstate commerce and not subject to the state's taxing power even though they grazed as they were driven. *Kelley* v. *Rhoads* (1902), 188 U. S. 1. In cases on the question of the right of the state to tax property temporarily within the state, though intended by the shipper to be forwarded ultimately, the property was taken from the hands of the carrier to serve some purpose of the shipper, as grading grain, *People*