Torts - Human Intervening Force as Breaking the Chain of Causation

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after the breach. These considerations assume added importance in this jurisdiction because of the great number of lakeside vacation cottages, which, normally, have a rental value during the vacation season, and are virtually unrentable for the rest of the year, but are likely subjects for longer leases due to the present housing shortage.

Such considerations would help prevent the inequitable result of the instant case where the tenant occupied premises which had a rental value of $45.00 per week during the nine weeks of his occupancy, for which he had promised to pay $37.00 per month for a year, but actually paying only a total of $74.00. The landlord occupied the premises during the period when the property was unrentable.\(^4\)

WILLIAM A. RITCHAY

Torts—Human Intervening Force as Breaking the Chain of Causation — Plaintiff was driving an automobile on highway 12 in Minnesota and defendant Butler was riding with him as a passenger in the front seat. Defendant Knudsen in his car was directly behind plaintiff on the highway. Knudsen attempted to pass plaintiff and turned into the left lane, coming up approximately abreast of the plaintiff's car. A cattle truck was approaching from the other direction and the highway, having only two lanes, could not accommodate all three vehicles. In this perilous position, plaintiff, in order to save himself, turned to the right in order to get on the shoulder of the road. Defendant Butler, the passenger, grabbed the wheel and turned the automobile to the left causing it to go across the highway and into a ditch on the left side of the road where it rolled over. Plaintiff's automobile touched neither the truck nor Knudsen's car. Defendant Knudsen contended that the act of defendant Butler was an efficient intervening force relieving Knudsen of any liability. Plaintiff's contention was that the negligence of Knudsen set in motion a series of events which culminated in the accident and that the negligence of both defendants proximately contributed to the damages which he sustained. Held: That the act of defendant Butler in grabbing the steering wheel and forcing plaintiff's car to the left across the highway and into the ditch, when defendant Knudsen was attempting to pass plaintiff's automobile in the face of an oncoming truck, was an "efficient intervening cause" of the accident, so as to relieve defendant Knudsen from liability for plaintiff's injuries. Robinson v. Butler et al., 33 N.W. (2d) 821 (Minnesota, 1948.)

The Minnesota Supreme Court has stated in earlier cases\(^1\) that in determining whether an alleged intervening cause is sufficient to relieve the original actor of responsibility the test is this:

\(^4\) See principal case, p. 104.
\(^1\) Childs v. Standard Oil Co., 149 Minn. 166 at 170, 182 N.W. 1000 at 1001 (1921).
"Has an independent, responsible agent intervened between the first wrongdoer and the plaintiff and the continuous sequence of events been interrupted or turned aside so as to produce a result which would not otherwise have followed?"

What is the content of the word "responsible" in defining the nature of the intervening act? It would seem possible that in this case defendant Butler acted in an emergency or at least in response to a stimulus, namely the danger he was put in because of Knudsen's act. As regards this reaction to a stimulus the Restatement of the Law of Torts states:

"An intervening act of a human being or animal which is a normal response to the stimulus of a situation created by the actor's negligent conduct, is not a superseding cause of harm to another which the actor's conduct is a substantial factor in bringing about."\(^3\)

The word "normal" in the above quotation is used as the opposite of "highly extraordinary" and not as meaning "standard" or "unusual."\(^4\) The reasonableness of the act is not a consideration. It is enough that the intervening act is other than a highly extraordinary response to the stimulus.\(^5\)

As far back as 1770 an English court considered this problem in the famous "squib" case, \textit{Scott v. Shepherd}.\(^6\) There the defendant threw a lighted squib (firecracker) into a market house and it landed on a merchant's wares. In order to protect himself the merchant threw it from him and it landed on another merchant's table. The second merchant also threw it from him and it then hit plaintiff, exploding in his eyes. The court held that under the circumstances, the merchants' acts were defendant's acts because they acted for fear of danger to themselves.

In \textit{Stanley v. F. W. Woolworth Co.}\(^7\) the Court held that where a plate glass window broke and plaintiff, although not hit by the glass, was injured by the stampeding crowd, the stampede was a natural response to fear caused by defendant's negligence.

If the above theory is to be successfully applied to this case, defendant Butler's act of grabbing the steering wheel and forcing plaintiff's car to the left must have been a "normal" response to the fear or disturbance, the word "normal" being used in the same sense here

\(^2\) Italics the author's.
\(^3\) Restatement of the Law of Torts, Sec. 443.
\(^4\) \textit{Ibid.}, Sec. 443 (b).
\(^5\) \textit{Ibid.}, Sec. 443 (a).
\(^6\) 3 Wills K. B. 403 (1770).
\(^7\) 275 N.Y.S. 804, 153 Misc. 665 (1934).
as above. By way of explanation the Restatement of the Law of Torts says:

"The actor's conduct must be a substantial factor in subjecting the other to fear or other emotional disturbance. Furthermore, the act done must be a normal response to the fear or disturbance. If after the event, and knowing that the fear or disturbance has been created, the act done or its impulsions appear highly extraordinary it is not a normal response to fear or disturbance."

It must be remembered that in determining whether this act was "normal" or not, the court or jury is looking back at the event and knows the situation, including the character of the one subjected to the stimulus, and decides from these facts whether the act was extraordinary or not. Under this definition of "normal," as opposed to extraordinary, defendant Butler's act might be considered normal. Certainly he was acting in response to a stimulus of fear caused in the first instance by Knudsen's act. It might well be argued that this reaction in a supposed emergency was not an efficient intervening cause, but merely a reaction to a stimulus, in itself incapable of breaking the chain of causation.

Daniel C. Corcoran

Torts—Right of Privacy—"The Saturday Evening Post" published an article entitled "Never Give a Passenger a Break." The author, joined as a defendant, was merciless in his ridicule of taxicab drivers in Washington, D.C. He pictured them as dishonest opportunists, ever ready to overcharge a patron not thoroughly familiar with the complicated zone system. The plaintiff was an operator of a taxicab, and her photograph was used to illustrate the article in question. Plaintiff's name was not mentioned in the text. She sued for damages for libel and for a violation of her "right of privacy" by reason of the publication of the photograph. The case was heard on defendant's motion to dismiss the complaint on grounds of insufficiency. Held: "Publication of a photograph of a private person without his sanction, unless by reason of his position or achievements he has become a public character, constitutes a violation of the 'right of privacy,' for which an action for damages will lie." Peay v. Curtis Publishing Company et al, (D.C., D.C., 1948) 78 F. Supp. 305; Fowler v. Curtis Publishing Company et al, (D.C., D.C., 1948) 78 F. Supp. 303.

This decision adds another jurisdiction to the growing weight of authority that there is such a thing as the "right of privacy," a right

8 Fn. 4, supra.
9 Restatement of the Law of Torts, Sec. 444 (c).
10 Fn. 4, supra.