1895

The Doctrine of Lumley v. Gye

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--THE DOCTRINE OF LUMLEY v. GYE--

THESIS

PRESENTED FOR THE DEGREE OF BACHELOR OF LAWS

-BY-

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1895
# Table of Contents

**Object of Thesis.**

**Chapter I.**

'Introduction.

**Chapter II.**

Sketch of the English Cases

**Chapter III.**

Sketch of the American Cases.

**Chapter IV.**

The Doctrine Upon Principle.
AUTHORITIES CITED.

Addison on Torts.
Benton v. Pratt, 2 Wend 385
Bigelow on Torts
Bish Dir & F
Bish Non-Cont Law
Bixby v. Dunlap 22 Am Rep 505
Boulier v. Macauley 15 S W Rep 60
Bowen v. Hall 6 Q B Div 333
Boyson v. Thorn 96 Cal 578
Chambers v. Baldwin 15 S W Rep 57
Chapley v. Atkinson 23 Fla 206
Dudley v. Briggs 141 Mass 582
Haskins v. Royster 70 N C 601
Howard v. Daly 61 N Y 362
Jetes v. Blocker 43 Ga 331
Johnston Harvester Co v. Keinhardt 9 Abb N C 393
Jones v. Stanley 76 N C 355
Lawson on Cont
Lucke v. Clothing &c Assembly 26 At Rep 505
Lumley v. Oye 2 E & B 216
Lumley v. Wagner 1 DeG M & G #601
Milwaukee &c k R Co v. Kellogg 94 U S 469
Mogul S S Co v. McGregor 1892 A C 25
Morgan v. Smith 77 N C 37
Old Dominion S S Co v. McKenna 30 Fed 48
Payne v H K Co 13 Tenn 526
Pollock on Torts
Rice v. Manley 66 N Y 82
Scott v. Shepherd 2 Wm Blkst Rep 892
State v. K R 52 N H 528
Temperton v. Russell 1893, 1 Q B 715
Toledo A A & N M Ky Co v. Penn Co 54 Fed 730
Walker v. Cronin 107 Mass 555
The object of this thesis is to show that according to the weight of authority and upon principle the following proposition is true:

One who knowingly induces one party to a valid contract to commit a breach of the contract is liable to the other party to such contract for the actual damages of which his act is the proximate cause.
CHAPTER I.

INTRODUCTION.

The infrequency with which this question has come before the courts to be reviewed and determined is surprising, for the question is not settled, but is an open one, and a seemingly close one. A glance at how irreconcilable are the results reached in the few reported cases will show this. One finds not only that the highest courts differ one from another, but in some of the cases very able dissenting opinions. This fact makes the subject teem with interest to the student of law. He turns to the text-books, hoping to find them guides to lead him through this uncertain field, but in vain, for it is curious to note the manner in which their authors have treated the question, dismissing it with a word. Have they considered it of little interest, reaching their conclusion, as is too often the case in this day and generation, by using the amount of litigation it has caused as the test; or, are they loath to attempt to elucidate an entangled subject? Be this as it may, we consider the question of sufficient interest to repay our careful
study.

The subject is important on account of the additional remedy afforded by allowing an action against the party causing the breach and the protective tendency of the same. The measure of damages for breach of contract is sometimes inadequate. Take, for example, the case of a contract to pay a certain sum of money on a certain day. The failure so to do may mean bankruptcy, financial ruin, yet the measure of damages is limited to the interest on the money from the day it should have been paid to the day of the judgment, other damages being too remote. If in this case the breach was caused solely by the act of a third party, should he not be responsible for the damages caused by his act? Again, it often happens that the one breaking the contract is irresponsible, and an action against him would result in an uncollectible judgment. At the same time, the inducing party may be a wealthy individual who is reaping revenge in this indirect way, or the prime mover may be a responsible labor union, wishing by such means to force certain persons to join its ranks, or to compel some employer to submit to its rules. In such cases are we to say
that courts of justice must stand by and see the individual reap revenge, the union compel submission to its mandates, or deal out destruction as the alternative? Are the courts when appealed to for protection to be compelled to admit that they are powerless to grant relief?

A glance at the labor situation of our country will show that the question is daily growing more practical. The keynote of former ages was universality, breadth; the watch word of the 19th century is specialization, depth. This is shown not only in the field of intellectual pursuits, but in the scientific and mechanical occupations as well. In the words of the political economist Division of Labor is the command. The widespread effect of this system is not apparent to the casual observer. Yet, when one remembers that it requires more capital to conduct a business in which such a system is in vogue, although in the end the cost of production is less, corporations are at once suggested. Corporations call to mind competition between them and the individual, which is followed by the individual, after an unsuccessful attempt to cope with this powerful rival, giving up the fight
and accepting employment at the hand of the corporation. To be freed from competing with his fellow workmen for these coveted positions and also to be relieved from oppression by the corporation, the laborer turned to nature for advice. As usual, she was not wanting in object lessons, and he learned from her that in union is strength. The result of this observation was communicated in every direction, and men of every profession and trade hurried to form themselves into unions, ostensibly for their mutual protection and advancement. Individuality has been, union now is.

The power of some of these unions is almost disastrous to the labor and commercial interests of our country. In many cases the officers of such an organization dictate which men shall be employed in certain businesses, and which men shall be discharged. They are aided in this kingly prerogative by the system of division of labor, for such a system is accompanied by the disadvantage of the dependency of one class of workmen upon another. Watch the working of any large manufacturing establishment, and you see that if the employees in any department cease to work those employed in every department, dependent upon the inoperative
one for material must also stop. While in the past individuals may have been prevented by a sense of justice from interfering with the contracts of others, in this day of corporations and labor unions we may expect a change, looking for this to be a fruitful source of litigation. This is especially true since the unions carry their plans into execution by calling out their members. This causes them to break contracts, and in many cases, this is followed by other contracts being broken.

We have referred to these matters in a summary manner, yet we deem their mere mention sufficient to show that the subject under discussion is interesting, important, and practical. This being so, we feel that our choice of a subject is a wise one, and that time devoted to its study cannot be without profit.
CHAPTER II.

SKETCH OF THE ENGLISH CASES.

In this sketch of the English cases we shall select but a few of the leading ones, being able in this way to treat them more in detail, and to dwell longer upon the important points.

Rarely do we find a case, especially the first one of the series, in which the different lines of reasoning that are to divide the highest and most learned of the English speaking courts upon the question involved, are brought forward and discussed. This being so in the case of Lumley v. Gye (2 E & B 216), the case which forms the foundation of the doctrine it enunciated, time will not be misspent in considering at some length the facts in the case and the conclusions reached by the different justices.

The case was brought before the Court of Queen's Bench in 1853, by Gye's demurring to Lumley's declaration on the ground that the facts stated did not constitute a cause of action. The facts in the case were briefly these: The plaintiff, Benjamin Lumley, was lessee and manager of the Queen's Theater, London. In Novem-
ber, 1851, he entered into a written contract with Joseph Bacher, as agent of Mlle. Johanna Wagner, whereby the latter agreed to sing at the plaintiff's theatre for three months beginning in April, 1852. The contract contained, among other conditions, one to the effect that "Mlle. Wagner engages herself not to use her talents at any other theatre, nor in any concert or reunion, public or private, without the written authority of Mr. Lumley." (Lumley v. Wagner, 1 DeG M & G #604). The defendant, Frederick Gye, before the expiration of the three months fixed by the contract, knowingly induced Mlle. Wagner to break her contract with the plaintiff, and to enter into a contract with him, Gye, whereby she agreed to sing at the Covert Garden Theatre. After procuring an injunction against Johanna Wagner, restraining her from performing at Covert Garden Theatre (Lumley v. Wagner 1 DeG M & G #604), Lumley brings this action to recover from Gye the actual damages he sustained by the latter's malicious interference with the plaintiff's contract, by procuring Johanna Wagner "to break her contract and not to perform or sing at plaintiff's theatre and to continue away during the time for which she was engaged."
The court was called upon to decide whether or not such facts stated a cause of action, and answered the question in the affirmative.

However, since the opinion was not unanimous and since the majority differed to some extent as to the reasoning upon which their decision rested, it will be well to note briefly the opinion of each.

Crompton, J., after stating the case as he understood it says: "Whatever may have been the origin or foundation of the law as to enticing of servants, and whether it be, as contended by the plaintiff, an instance and branch of a wider rule, or whether it be, as contended by the defendant, an anomaly and an exception from the general rule of law on such subjects, it must now be considered clear law that a person who wrongfully and maliciously, or, which is the same thing, with notice, interrupts the relation subsisting between master and servant by procuring the servant to depart from the master's service, . . . . commits a wrongful act, for which he is responsible at law."

After stating that the relation of master and servant existed in this case sufficiently to apply the rule and that he does not however wish to be considered as say-
ing that in no case, except that of master and servant, is an action maintainable for maliciously inducing another to break a contract to the injury of the person with whom such contract has been made, he continues: "Without, however, deciding any such more general question, I think that we are justified in applying the principle of the action for enticing away servants to a case where the defendant maliciously procures a party, who is under a valid contract to give her exclusive personal service to the plaintiff for a specified period, to refuse to give such service during the period for which she has so contracted, whereby the plaintiff was injured."

Erle, J., states his opinion in broad and comprehensive terms, as will appear from the following: "It is clear that the procurement of the violation of a right is a cause of action in all instances where the violation is an actionable wrong. When this principle is applied to a violation of a right arising upon a contract of hiring, the nature of the service contracted is immaterial."

Wightman, J., gives a very exhaustive and learned opinion. After reviewing several cases, in which an
action upon the case was allowed, he says: "Upon the whole, therefore, I am of opinion that, upon the general principles upon which actions upon the case are founded, as well as upon authority, the present action is maintainable. It is not, however, necessary, for the maintenance of the third count of the declaration at least, to rely upon so general a principle; for the case, at all events, appears to me to fall within the cases which the defendant considers are exceptions to the general rule, and in which actions have been held maintainable for procuring persons to quit the service in which they have been retained and employed. The defendant contends that the exception is limited to the cases of apprentices and menial servants, and others to whom the provisions of the Statutes of Labourers will be applicable. It appears to me, however, upon consideration of the cases cited upon the argument, that the right of an employer to maintain an action on the case for procuring or inducing persons in his service to abandon their employment is not so limited; but that it extends to the case of persons who have contracted for personal service for a time, and who, during the period have been wrongfully procured and
incited to abandon such service, to the loss of the person whom they have contracted to serve. The right to maintain such an action is by the common law, and not by the Statute of Labourers, which, however, gave a remedy, which the common law did not, in cases where persons within the purview of the statute have voluntarily left the service in which they were engaged, and have been retained by another who knew of their previous employment. The remedies and penalties given by this and the next subsequent Statute of Labourers were limited to the persons described in them; but the remedies given by the common law are not in terms limited to any description of servant or of service."

We come next to the dissenting opinion of Coleridge, J., in which he states the conclusions he seeks to establish. They are these: "That in respect of breach of contract the general rule of our law is to confine its remedies by action to the contracting parties, and the damages directly and proximately consequential on the act of him who is sued; that, as between master and servant, there is an admitted exception; that this exception dates from the Statute of Labourers, 23 Edw. III, and both on principle and according to
authority is limited by it."

We agree with the learned Judge in regard to the scope of the Statute of Labourers. However, we join issue with him regarding the lines of reasoning he pursues in the rest of his opinion. Yet we shall not enter into a discussion of its merits here, but shall state our views in a more convenient place, simply mentioning in this connection that we differ from him.

As a result of the foregoing investigation, we find that the judges were feeling their way very cautiously, trying with their characteristic adherence to precedents to rest their decision upon some familiar doctrine. We see that two chains of reasoning were advanced. The more conservative held that the contract was within the principle of the Statute of Labourers, and should be governed by it; the others held that the right was derived from the common law, and that the nature of the service was immaterial.

Of course this case called forth a great deal of comment and criticism. As a result of this when a similar case came up for decision the court understood more clearly the law applicable to the facts. In 1881, the next case of interest to us came before
the Court of Appeals. It was the case of Bowen v. Hall (6 Q B Div 333). The action was for knowingly procuring a skilled workman, who, with a few others, possessed a secret process for manufacturing glazed bricks, to break his contract with the plaintiff for exclusive service for five years. The court, realizing that the principle of the Statute of Labourers could not be properly extended to such a case, repudiated that line of reasoning, stating that they would have much doubt as to whether they would support Lumley v. Gye if, in order to do so, they would have to adopt this proposition, feeling that the dissenting opinion of Coleridge, J., was almost conclusive upon that point. They, however, fully agreed with the second chain of reasoning, and rested the decision of the case upon it. This case put at rest forever the question involved.

Since the court used very general language in the case last referred to, it might be questioned whether or not the principle they proclaimed would extend to contracts of every description, the case before them for determination involving a contract for personal service only. The case of Temperton v. Russell (1893,
1 Q B 715), the last case of importance to us, removed all doubt in regard to this inquiry, for in that case the doctrine was carried to its full extent. The contract which the defendant knowingly caused to be broken was one whereby material for building purposes were to be furnished. The court followed the reasoning of Bowen v. Hall, and treated it as settled law that one who knowingly induces a party to any contract to break it commits an actionable wrong if injury results.

Another question before the court in Temperton v. Russell was whether or not an action would lie against one who with actual malice caused a party not to enter into a contract with another party. The damages may be the same whether one is persuaded not to enter into a contract, or, having entered into it, is induced to immediately break it. Yet, the grounds for allowing an action must of necessity be different in the two cases. Therefore we shall not treat this question, it being outside of the scope of this thesis.

We see from this review of the English authorities, that they are in favor of allowing an action in these cases and that they have extended the doctrine whenever necessary.
CHAPTER III.

SKETCH OF THE AMERICAN CASES.

We come now to the American cases, which are irreconcilably divided; some holding, as did Coleridge, J., in Lumley v. Gye, that the doctrine originated in the Statute of Labourers, and should not be extended, others holding, as do the English cases generally, that it has no such origin, and is not confined within such narrow boundaries. In fact, some cases have arisen which called for the courts to extend the doctrine to its full extent, and they have responded to the call. In the treatment of this chapter we shall, as in the one upon the English cases, select a few of the leading cases to show the trend of the decisions.; first, as to those holding with the English theory, then as to those following Coleridge, J.

The case which perhaps holds the same relative position among the American cases as does Lumley v. Gye among the English, is Walker v. Cronin (107 Mass 555), decided in 1871. The plaintiffs stated their case in three counts. First, that they were manufacturers and sellers of boots and shoes, and employed many
men to work for them; that defendant, knowing these facts induced, with the unlawful purpose of preventing the plaintiffs from carrying on their business, said persons to leave the employment of the plaintiffs without their consent and against their will, whereby the plaintiffs were damaged. The second count was to the effect that the plaintiffs had entered into contracts with a large number of persons skilled in the art of making boots and shoes, whereby said persons had, for a valuable consideration agreed to make certain stock into boots and shoes and return the same to plaintiffs; that defendant knowing all this induced said persons to break their contracts, whereby the plaintiffs were damaged. In the third count, they set forth the fact that such a contract, as was described in the second count, was entered into by the plaintiffs, and one Lyman L. Temple, and that the defendant had induced him to break it, whereby the plaintiffs were injured.

The court states in its opinion that, if a contract existed by which one person had a legal right to the further continuance of the services of another, one who knowingly and intentionally procured it to be violated, may be held liable for the wrong. The court
continues in substance that the doctrine did not spring
from the English Statute of Labourers, and is not con-
fined to menial service; but is founded upon the legal
right derived from the contract, and applies to all
contracts of employment, if not to contracts of every
description. The opinion concludes as follows: "Upon
careful consideration of the authorities as well as of
the principle involved, we are of opinion that a legal
cause of action is sufficiently stated in each of the
three counts of the declaration."

The next case of importance to us is Haskins v.
Royster (70 N.C 601), decided in 1674. In this case
the plaintiff had employed certain laborers to work on
his farm under written contract. The defendant persuad-
ed these workmen to leave the plaintiff's employment,
whereby the plaintiff was injured. The majority of
the court held that an action would lie under these
circumstances. Rodman, J., who delivered the
opinion of the court proceeds as follows: "We take
it to be a settled principle of law that if one con-
tracts upon a consideration to render personal service
to another, any third person who maliciously, that is,
without lawful justification, induces the party, who con-
tracted to render the service, to refuse to do so is liable to the party in an action for damages:"

Three years later in the same state we find before the court for decision the case of Jones v. Stanley (76 U. C. 365), in which the contract broken was not one of personal service. The case is disposed of in a summary manner, the judge, delivering the opinion, stating that it was decided in Haskins v. Hoyston that if a person maliciously enticed laborers to break their contracts with their employers and desert their service, the employers may recover damages against such person. He further states that the same reasoning covers every case where one person maliciously persuades another to break any contract with a third person, it not being confined to contracts for service. Time and space will not permit of our examining any more cases upon this side of the question. The cases already discussed show that at least some of the courts of this country have proceeded along the same lines that the English courts in later years have followed.

In passing we must also give some of the cases upon the other side of the question. Since there is no ever-widening doctrine in these cases, but a constant
adherence to the limits placed in the early cases, it will not be necessary to follow them in chronological order. An examination of some two or three of the latest cases will suffice. We find two cases decided in 1891 at the same term of a Kentucky court, and reported in 15 S.W. Rep. at p 57 and at p 60. The first, Chambers v. Baldwin, was a case in which the defendant induced one Wise to break a contract, whereby he had agreed to sell his undivided share in a crop of tobacco to the firm of Chambers & Marshall, and to sell the same to the defendant. It was decided that these facts did not entitle the plaintiff to a right of action. The court proceeded upon the theory that each party to a contract "enters into it with his eyes open, and expects to look alone to the other for redress in case of breach by him. There can be no exceptions... one such exception was made by the English Statute of Labourers, ... the other arises when a person has been procured against his will or contrary to his purpose by coercion or deception of another to break his contract." Then follows a discussion to the effect that "an action legal in itself and which violates no
right cannot be made actionable on account of the motive which induced it." Assuming as true what it wished to prove, namely that the act was legal and that it violated no right, the court, of necessity, drew the conclusion that no action lay. The other Kentucky case, that of Boulier v. Macauley, was a case in which the defendant induced the manager of Mary Anderson to break a contract with the plaintiff, whereby she was to perform at the plaintiff's theatre, and to enter into another contract whereby she was to perform at the defendant's theatre. The court, applying the same reasoning as was applied in the other case, of course held no recovery. It will be seen that the facts in this case were substantially the same as those in Lamley v. Gye.

The latest reported case in this country, holding that no right of action lies, is Boyson v. Thorn (98 Cal 578), decided in 1893. In that case the defendant maliciously persuaded one Newlands to break a contract with the plaintiff, whereby he, Newlands, had agreed to furnish the plaintiff with rooms and meals. The court in deciding the case stated that actions would lie in those cases in which the relation
of master and servant existed, and also in those cases where the breach was caused by fraud, threat, and the like. However the court would not extend the doctrine, and as the case did not fall under either of the above classifications, they refused to allow the plaintiff his action.

These cases are enough to show how irreconcilable are the courts; one class assumes certain facts and reaches certain results, the other class assumes different premises and draws different conclusions. However, upon the whole we think that the better reasoned decisions are in favor of allowing a remedy in such cases.
CHAPTER IV.

THE DOCTRINE UPON PRINCIPLE.

From the cases we selected for treatment in the preceding chapters, it will be seen that it is not our purpose to enter into a discussion of those cases in which the relation of master and servant in the strict meaning of those terms exists; nor shall we devote any time to those cases in which unlawful means, such as threats, have been used in procuring the breach. All agree that under such circumstances the injured party is entitled to an action. Boyson v. Thorn, 96 Cal 578; Chambers v. Baldwin, 15 S W Rep 57; Old Dominion S S Co v. McKenna, 30 Fed 48; Lanley v. Cye, 2 E & S 216; Benton v. Pratt, 2 Wend 3-5; Rice v. Hanley, 66 N Y 82; Jette v. Blocker, 43 Ga 331; Baxby v. Dunlap, 22 Am Rep 475; Johnston Harvester Co v. Reinhardt, 9 Abb N C 393. It is to those cases into which neither of these elements enter that we shall confine ourselves, and endeavor to show that upon principle an action should lie in such cases.

If there are actual damages, of which the act of
the party complained of is the cause, upon principles of equity and justice, the injured party should not be without relief in the absence of any valid reason for withholding it. It is a general rule of law that no wrong is without a remedy, the exceptions being those cases in which justice demands a contrary holding. Therefore we contend that in the case under discussion, an action should lie unless those who oppose it show affirmatively that it should be denied.

Let us first consider the chain of reasoning followed by Coleridge, J., in Lunley v. Gye, for if it be correct, our investigation is at an end. He contended that the right to recover in such cases sprang from the Statute of Labourers, and that it should not be extended beyond those cases in which the relation of master and servant in the strict meaning of those terms exists. We agree with the learned judge that the principle of the Statute of Labourers should be so limited. However, did the right of action in such cases thus originate? The state of society in England at the time of the passage of this statute made its enactment imperative. England had been visited by pestilence, known in history as the Black Death, which
resulted in the laboring class being greatly reduced in number. So much so that the demand for laborers was great enough to admit of their demanding unusually high wages. If this demand was refused, they traveled from place to place, feeling sure of getting employment elsewhere. This resulted in many places being neglected for want of workmen. To remedy this state of affairs, the statute was passed. It said nothing about directly inducing a contract to be broken. In fact, this was not the evil aimed at. It was enacted to compel laborers to specifically perform their contracts, and to accomplish this it made it a wrong for one to employ a laborer if he knew that the laborer was bound to serve another.

Let us see if we can discover any reason for the courts' placing any stress upon this doctrine in the early cases. It will be remembered that the first case, Lumley v. Gye, to call for judicial decision was one in which the relation of master and servant existed, although not in the strict meaning of those terms. The defendant employed Johanna Wagner, knowing that she was bound to serve another. Was it strange, then, that the English judges with their characteristic
conservatism and love of precedents, should have leaned towards extending a well known doctrine to this case, although a different kind of action was brought. It will be remembered that they were not, however, completely satisfied with this reasoning, and each, with the exception of Coleridge, J., stated in different degrees of boldness that the case might be decided upon other grounds, and be extended to contracts other than those in which the relation of master and servant existed. While they knew that the nature of the service to be rendered affected the right to recover for enticing away a servant, they seemed to also see that in the day of complete labor emancipation all contracts would be entered into in the same manner, master and servant contracting upon a legal equality, and that under such circumstances the nature of the service to be rendered would be no criterion by which to judge as to a right of action for causing a breach of contract. Dilor Dir & F Sec 303; Temperton v. Russell, 1893, 1 Q B 715; Fogul S S Co v. McGregor, 1892 A C 25; Walker v. Cronin, 107 Mass 555.

We feel that the reasoning by which a right to recover for causing a breach of contract is said to be
founded upon the Statute of Labourers and to be limited to contracts of personal service is incorrect. If a right is to be allowed it must be upon different grounds. After a close study of the question we have concluded that the right to recover is founded on common law (Lumley v. Gye 2 E & B p 241), is derived from the contract itself (Walker v. Cronin, 107 Mass p 567), and is not limited to those contracts in which the relation of master and servant exists. Temperton v. Russell, 1893, 1 Q B 715; Jones v. Stanley, 76 N C 355; Fish non-Cont Law Sec 493. In Temperton v. Russell, the court states the following: "The contract confers certain rights on the person with whom it is made, and not only binds the parties to it by the obligations entered into; but also imposes on all the world the duty to respect the contractual obligation". (Temperton v. Russell, 1893, 1 Q B p 730). Lawson, in his work on contracts, states the principle thus: "But though a contract cannot impose the burdens of an obligation upon one who is not a party to it, nevertheless a contract does impose a duty, upon person extraneous to the obligation, not to interfere with its due performance." (Lawson on Cont Sec 115).
It is said that to so hold would be to destroy competition by protecting certain persons against it, and that such should not be. We grant that one has no right to be protected against competition and that if disturbance or loss comes as a result of competition it is damnum absque injuria. (Lucke v. Clothing etc. Assemb 26 At Rep 505; Dudley v. Briggs, 141 Mass 562). However, if a valid contract exists, competition in respect to the subject matter of such contract has ceased, and a right has come into existence, the interference with which the law will not permit. In other words, every one has an equal right to employ workmen in his business, yet, if a contract exists whereby some other person is entitled to the further continuance of the service of such workman, one who knowingly procures it to be violated may be held liable although he did it for the purpose of promoting his own business. (Walker v. Cronin 107 Mass p 563).

However the injured party has not an absolute right, knowledge of which the world must have at its peril, and the interference with which entitles him to at least nominal damages. On the contrary, to make out a case, he must show that the defendant knowing-
ly caused a breach of the contract, that the defendant's act was the proximate cause of the breach, and that the breach resulted in actual damages. (Bigelow on Torts p 141; Pollock on Torts, p 352; Bish Dir & F Sec 303, Sec 371).

The only one of these factors which calls for a discussion is the one in regard to proximate cause, for, unless it is shown that the defendant had knowledge of the contract and that its breach resulted in actual damages, we agree that no action lies. It is said by some that the defendant's acts cannot be the proximate cause of the breach in such cases, the act of a free agent, namely, the one breaking the contract, having intervened. Are we to say that one is to escape the consequences of his acts because he accomplished it through the instrumentality of a third party? Or are we to consider those results proximate which he not only saw were likely to follow from his acts, but which he actually strove to produce? A statement of these questions must inevitably suggest the correct answer, yet we shall look at some of the authorities. Pollock defines proximate cause as follows: "Those consequences, and those only,"
are deemed proximate, which a person of average competence and knowledge, being in the like case with the person whose conduct is complained of, and having the like opportunity of observation, might be expected to foresee as likely to follow upon such conduct."

(Pollock on Torts #28). Again Pollock says in substance that one cannot say that the result is not proximate to his act because some act of another party has intervened, if he saw that the result would happen. (Pollock on Torts #453-4). We shall not devote more time to this except to cite the following authorities: Scott v. Shepherd 2 Wm. Blackst Rep 892; Milwaukee &c R R Co v. Kellogg, 94 U S 469.

There is one more point upon which we must touch. It is said that when two parties enter into a contract they rely upon each other to fulfill the terms of the same, and expect upon the failure so to do to look to the one breaking the contract for redress and to none other. The advocates of this theory fail to consider the fact that the parties to a contract do not expect interference from outside parties, hence feel that if the contract is not carried out the failure will be due wholly to the act of a contracting party. If they
were to foresee that some wealthy individual, some strong labor union, would interfere with the due performance of their contract, it is reasonable to prophesy that they would not enter into contracts as freely as they do, unless they felt that the courts would not allow this wrongful interference to go unheeded, this injury to be without a remedy. Because the parties did not foresee the interference, hence, did not expect the remedy, seems a poor reason for withholding the remedy.

These are the several reasons advanced for holding that no action should lie, and we have attempted to show the fallacies in the reasoning of those who advocate them. If we have succeeded in this, an action should lie, since they have failed to show that this is an exception to the rule that no wrong is without a remedy, and the burden of proof was upon them. After a careful study of the question, we are convinced that the weight of authority is in favor of allowing the action, and that principles of justice and equity demand a redress for this injury, a remedy for this wrong.