

be quite irreconcilable with the series of English cases which begins with *Langridge v. Levy* (c). So far as the actual decisions go, it would seem that the rule as to things dangerous is in England restricted to explosives (d), though it is not improbable that, if the question were actually presented, the judges might follow the American decisions which extend it to poisonous drugs (e).

In its present shape, therefore, this rule seems to be of a very slender juridical value, its operation being confined to a small class of articles, the boundaries of which it is difficult, if not impossible, to establish on any logical grounds. The law of the subject, however, might be placed upon a more rational foundation if cases of this type were referred, as they might well be, to the principles upon which a duty is in some cases predicated to impart information as to the dangerous qualities of substances which a person allows to pass out of his immediate control. [See (H.) post. and the cases cited in note (g), below]. On the one hand, it would be difficult to suggest any sound reason why the things which are regarded as "dangerous in themselves," should not, for the purposes of legal liability, be held to be removed from that category by proof that the person injured by them was aware of their true character. At

rope). It should be noted however, that all these rulings preceded that in *Devlin v. Smith*, *supra*, and that the last one has been formally overruled in *Davies v. Pelham* (1892) 65 Hun. 373, *aff'd* (without opinion) in 146 N. Y. 363 (derrick for hoisting heavy stones). Other American courts seem to have uniformly refused to extend the liability of manufacturers and vendors on this ground beyond their immediate transferee. See *Ziemann v. Kieckhofer* (1895) 90 Wisconsin Rep. 497 (goods elevator); *Heiser v. Kingland, & Co.* (1892) 110 Missouri Rep. 105 (threshing machine); *Roddy v. Missouri Pac. R. Co.* (1891) 104 Missouri Rep. 234; 12 Lawy. Rep. Ann. 746 (defective brakes—compare Lord Shand's opinion in the *Mulholland Case* [1898] A.C. 216); *Goodlander Mill Co. v. Standard Oil Co.* (Circ. Ct. of App. 1894) 63 Fed. Rep. 400 (crude petroleum); *Bright v. Barnett* (1894) 88 Wis. 299, 26 Lawy. Rep. Ann. 524 (defective scaffold). *S.P. Smith v. Onderdonk* (1898) 25 Ont. App. 171 (defective locomotive).

(c) See especially the remarks of the judges in the cases cited in the notes (to VII) *supra*, and compare the remark of Lord Justice Bowen that the law of England "does not consider that what a man writes on paper is like a gun or other dangerous instrument, and, unless he intended to deceive, the law does not, in the absence of contract, hold him responsible for drawing his certificate carelessly." *Le Lievre v. Gould* (1893) 1 Q.B. 493 (p. 502), approving a dictum of Romer, J., in *Scholes v. Brook* (1891) 63 L.T.N.S. 837.

(d) See the cases cited in VII. *supra*. Compare *Purry v. Smith* (1879), 4 C.P.D. 325, (gas-fitter held liable, as for "a misfeasance independent of contract," to a servant of the proprietor of the building for an explosion of gas resulting from his carelessness in leaving an imperfectly connected tube); *Wellington v. Downer, & Co.* (1870), 104 Mass. 64 (manufacturer of inflammable oil, selling it without giving notice of its dangerous properties, liable to any person who may subsequently purchase it of a retail dealer).

(e) *Thomas v. Winchester* (1852) 6 N.Y. 397; *Norton v. Sewall* (1870) 106 Mass. 143.