The American rule.—The courts of this country have quite universally adopted the principle of the English cases on this subject. The earliest exposition of this principle by the American courts appeared in the opinion of Strong, J., in the case of Mayor, etc., of the *City of Albany* v. *Cunliff* (*f.*) Without setting forth the facts, which are of some length, it was said: "The court below based the alleged responsibility of the defendants in this suit on the general ground that where one party sustains an injury by the misfeasance of another, the sufferer may maintain an action against the wrong-doer for redress. That rule operates where the injury is effected directly by the wrong, or where it results from the mal-construction of some object while it is in the possession or under the control or in any manner used under the agency or instructions of the party originally in fault. But I know of no case where it has been held that a stranger can recover for damages sustained by reason of the defective construction of an object of the builder, after the title to the object has changed, and it has passed out of his possession and is no longer subject to his control, and in no wise used pursuant to any authority or directions from him." The principle of this case has been re-affirmed in the later New York cases and followed by various other courts of the United States.

Illustrative cases.—Among the many cases illustrating this rule may be mentioned that of *McCaffrey* v. *Massburg, etc., Mfg. Co.* (*h*). There the plaintiff built a drop press in which was a heavy weight held by a hook. The hook, because of having been made of iron or steel of a poor quality, broke and let the weight fall upon and mash the hand of an employee of the purchaser of the machine from the manufacturer. The action for the injury thus sustained was brought by the employee against the manufacturer. The declaration averred the defendant's knowledge of the dangerous character of the appliance and that it was likely to endanger the life and limb of an operator exercising due care in the use of it. It was held, on demurrer to the declaration, that the plaintiff could not recover. *Bragdon* v. *Perkins-Campbell Company* (*i*) was an action

(*f*) *Mayor, etc.* v. *City of Albany* v. *Cunliff*, 2 N.Y. 166.

(*h*) *McCaffrey* v. *Massburg & Granville Mfg. Co.*, 33 R.I. 381, 50 Atl. Rep. 651, 55 L.R.A. 822.

(*i*) *Bragdon* v. *Perkins-Campbell Co.*, 87 Fed. Rep. 109, 58 U.S. App. 91, 30 C.C.A. 56, 47 Cent. L.J. 208.