he belonged, or to the public generally(*a*). Upon this ground the principal employer has been held liable under the following circumstances:

Where the property of an abutting owner was damaged as a result of the grading of a street by a municipal corporation(*b*).

Where access to the premises of a landowner was obstructed as a result of the excavation of a railway cutting, which entailed an alteration of the grade of the street on which the premises abutted(c).

(*a*) In *Norwalk Gaslight Co.* v. *Norwalk* (1893) 63 Conn. 495, 28 Atl. 32, and *Hughes* v. *Cincinnati & S.R. Co.* (1883) 39 Ohio St. 461, the following passage from Cooley, Torts, p. 547, is referred to with approval: "The employer must not contract for that the necessary or probable effect of which would be to injure others."

An employer is liable for the acts of an independent contractor under a "contract in its very nature and necessarily injurious to a third person." In such a case the injury does not result from the manner in which the work is done, but from the fact that it is done at all. *Williams* v. *Fresno Canal & Irrig. Co.* (1892) 96 Cal. 14, 31 Am. St. Rep. 172, 30 Pac. 961.

In denying the right of the plaintiff to recover against the employer the courts sometimes take occasion to declare the inapplicability of this rule;—as where it is stated that the case was not one in which the defendant "contracted for work to be done which would necessarily produce the injuries complained of." *McCafferty* v. *Spuyten Duyvil & P.M.R. Co.* (1874) 61 N.Y. 178, 19 Am. Rep. 267.

The form in which this rule is enounced above indicates that it is not applicable, generally speaking, to cases in which the work would not have entailed any injurious consequences if it had been carefully executed. In *Chartiers Valley Gas Co.* v. *Waters* (1888) 123 Pa. 220, 16 Atl. 423, the trial judge had charged the jury that if the defendant gas company undertook to lay its main along the street of a certain city, it owed to another company which already had its pipes there, and to the property holders, and to the public, a duty of supporting such pipes, and that, if an escape of gas was caused by its failure to perform this duty, the fact that the work of laying the main had been entrusted to a contractor did not absolve it from liability. Commenting upon this instruction, the Supreme Court said: "The learned judge seems to think that because the pipe of the Philadelphia Company was necessarily undermined and therefore contemplated by the contract, it changes the rule, because it is a necessary interference with the rights of others. The answer is, there is no necessary interference with the rights of others unless negligence exists. Both companies had their rights, and they are perfectly consistent with each other. If the company itself was guilty of negligence she would be liable for consequent injury to another's rights; if the contractor alone is guilty, he alone is liable." It is very doubtful, however, whether this ruling would be accepted as correct in all jurisdictions. The circumstances would rather seem to demand an application of the doctrine reviewed in Subtitle V.

(*b*) *Sewall* v. *St. Paul* (1874) 20 Minn. 511, Gil. 459.

(*c*) *Alabama M.R. Co.* v. *Coskry* (1890) 92 Ala. 254, 9 So. 202. It was remarked that responsibility is imposed upon a railway company for every wrong done by a contractor within the limits of his duties in grading its roadbed for the reason that such grading is conclusively