ployer must be taken to have authorized the act, and is responsible for it." *Hole* v. *Sittingbourne & S.R. Co.* (1861) 6 Hurlst. & N. 488, 497, 30 L.J. Exch. N.S. 81, 3 L.T.N.S. 750, 9 Week. Rep. 274, per Wilde, B. In the same case Pollock, C.B., remarked that "when the contractor is employed to do a particular act, the doing of which produces mischief," the doctrine by which the employed is exempted from liability is not applicable.

In his well-known opinion, delivered to the House of Lords in *Mersey Docks & Harbour Board* v. *Gibbs* (1864) L.R. 1 H.L. 93, 114, 11 H.L. Cas 686, 35 L.J. Exch. N.S. 225, 12 Jur. N.S. 571, 14 L.T.N.S. 677, 14 Week. Rep. 872, Blackburn, J., drew attention to the necessity of bearing in mind the "distinction between the responsibility of a person who causes something to be done which is wrongful, . . . and the liability for the negligence of those who are employed in the work," and observed that "liability for doing an improper act depends upon the order to do that thing," and that, in the cases to which this principle is applicable "it is quite immaterial whether the actual actors are servants or not."

"If a contractor faithfully performs his contract, and a third person is injured by the contractor in the course of its due performance or by its result, the employer is liable, for he causes the precise act to be done which occasions the injury." Seymour, J., in *Lawrence* v. *Shipman* (1873) 39 Conn. 586, quoted with approval in *Norwalk Gaslight Co.* v. *Norwalk* (1893) 63 Conn. 495, 28 Atl. 32.

"If the injury was the natural result of work contracted to be done, and it could not be accomplished without causing the injury, the person contracting for doing it would be held responsible." *Eaton* v. *European & N.A.R. Co.* (1871) 59 Me. 520, 8 Am. Rep. 430.

"One who authorizes a work which is necessarily dangerous, and the natural consequence of which is an injury to the person or property of another, is justly to be regarded as the author of the resulting injury." *Jefferson* v. *Chapman* (1889) 127 Ill. 438, 11 Am. St. Rep. 136, 20 N.E. 33

The rule exempting employers from liability for negligence of independent contractors does not apply "where the performance of the contract in the ordinary mode of doing the work necessarily or naturally produces the defect or nuisance which caused the injury." *Carlson* v. *Stocking* (1895) 91 Wis. 432, 65 N.W. 58.

The antithesis between injuries arising from the manner in which the work is done, and injuries arising from the fact that it is done, is frequently traceable in the language of judges. See, for example, *Boswell* v. *Laird* (1857) 8 Cal. 469, 68 Am. Dec. 345 (Heath, J., arguendo); *Omaha* v. *Jensen* (1892) 35 Neb. 68, 37 Am. St. Rep. 432, 52 N.W. 833.

In a case where it is sought to hold a lessor liable "for the tortious conduct of a lessee, if the terms of the lease led to the wrong complained of, the authorities shew that in that case the lessor would be liable." . . . "But if the subject be let for a lawful purpose, and the lease does not expressly or by implication permit any injurious act to be done, the lessor would not be liable." *Duncan* v. *Magistrates of Aberdeen* 1877; Ct. of Sess. 14 Sct L.R. 603, per Lord Ormidale.

One of the cases in which the Georgia Civil Code of 1895, § 3819, declares the employer to be liable, is "when the work is wrongful in itself, or, if done in the ordinary manner, would result in a nuisance."

The fact that the injury did not arise from the thing itself which the contractor agreed to do is the diagnostic mark of those torts, to which the term "collateral" or one of its equivalents is applied, see § 39, *ante*.

In any case where the evidence renders such an instruction appropriate, a jury is correctly charged to the effect that, "if the necessary or probable effect of the performance of the work would be to injure third persons, or create a nuisance, then the defendant is not relieved from liability, because the work was done by a contractor over which it had no control in the mode and manner of doing it." *Southern Ohio R. Co.* v. *Morey* (1890) 47 Ohio St. 207, 7 L.R.A. 701, 24 N.E. 269.