

sequence of this exposure some of them caught cold, which depreciated their value. It was held by the Court that damage in respect of such cold was recoverable, as it was the probable consequence of the defendant's breach of contract, and was not consequently too remote.

Brett, L.J., in delivering his judgment in the *McMahon* case, took occasion to express his dissatisfaction with the decision in the *Hobbs* case, in these terms: "The wife in consequence of the exposure caught a cold, and it was said that such damage was too remote to be recovered. Why was it too remote? There was no accommodation or conveyance to be obtained at Esher at that time of night, so that it was not only reasonable that they should walk, but they were obliged to do so. Why was it that which happened was not the natural consequence of the breach of contract? Suppose a man let lodgings to a woman, and then turned her out in the middle of the night with only her nightclothes on, would it not be a natural consequence that she would take a cold? Had Esher station been a large one, and there had been flies which might have been had, or accommodation at an inn, and the passengers had refused such and elected to walk home, I should have thought then that what happened arose from their own fault, but that was not so, yet, nevertheless, the judges who decided *Hobbs v. London and South Western Railway Company*, decided, as a matter of fact, that the cold was so improbable a consequence that it was not to be left to the jury whether it was occasioned by the breach of contract. It is not however, necessary for me to say more than that I am not contented with it." Brett sarcastically remarked, in distinguishing between this case of a horse catching cold on being turned out in the night time and that of the *Hobbs* case, where the lady caught cold, that people might possibly walk home on a wet night without catching cold, but horses turned out would be sure to do so.

Let us proceed to consider the question of remoteness, as a legal ground for the exclusion of damage, in actions of tort. The leading maxim, "a man is presumed to intend the natural consequences of his acts," is at best a vague one. Lord Bramwell compares it to something like having to draw a line between night and day, the great duration of twilight rendering it almost impossible to determine when the day ends and the night