He owes no legal duty to himself to take due care of himself or of his property, and as he has violated no legal duty to the defendant and done him no damage, he has committed no tort. Whatever of truth there is in this theory of contributory negligence—the same principle being also sometimes put in the forms that the plaintiff must come into court with clean hands, and that no man can take advantage of his own wrong—is embraced under another principle, not yet mentioned, to be discussed below.

Finally, if a plaintiff cannot recover because his negligence is a proximate cause of the injury, the negligence of the plaintiff in *Davies* v. *Mann* is, in the legal meaning of the phrase, though not perhaps in its logical or metaphysical meaning, a proximate cause. Speaking generally, if a man does or omits to do an act which is likely to result in damage, under all the circumstances known and which ought to be known to him at the time, his act or omission is the legal cause of that damage. Now in *Davies* v. *Mann* the plaintiff did an act which was likely to result in damage, and which did so result. The opinion of the court conceded that it was an act of negligence, and it was contributory negligence; for although not directly conceded by the court to be contributory, that concession is understood by the English courts to be involved in the principle of the case, particularly by the House of Lords, in the passage above quoted from Lord Penzance. If the negligence of Davies was contributory, it was also a proximate cause, for on the theory of proximate causes remote negligence is not contributory, and is not, legally speaking, a cause at all, but is disregarded. *In jure non remota sed proxima causa spectatur.* It follows that in *Davies* v. *Mann* the plaintiff violates every one of the principles thus far given as the foundation of the law of contributory negligence. Yet he is allowed to recover.

It is submitted that there is another principle upon which to rest the law of contributory negligence. When a plaintiff seeks redress in a court of law for a tort, the rule which the court may apply will not only settle the dispute against him or in his favour, but it will have a further and more lasting office as a precedent binding upon all members of the community in a similar case. The community, therefore, has an interest in the result, and the needs of the community should have an influence upon the rule to be laid down. That they do have an influence is beyond dispute.

In an action for negligence it is of no consequence to the law whether the particular defendant shall be compelled to pay damages, or whether the loss shall be allowed to lie where it fell. The really important matter is to adjust the dispute between the parties by a rule of conduct which shall do justice if possible in the particular case, but which shall also be suitable to the needs of the community, and tend to prevent like accidents from happening in future. The reason why a plaintiff who is guilty of contributory negligence can recover no damages is to a large extent a matter of sound policy or legislation; and this view has been suggested at least, if not directly stated, by judicial authority. In the Ohio case of *Davis* v. *Guarnieri*, Owen, C.J., in laying down three considerations upon which the doctrine of contributory negligence is based, gives this as the last: "(3) The policy of making the personal interests of parties dependent