The lien, although unqualified and broad, requires all persons dealing with such estates to investigate at their peril the condition of the estate with respect to federal estate taxes.[22] Notice of the federal estate tax lien need not be recorded[23] or filed as required under the general tax lien statute[24] in order for said lien to prevail against subsequent mortgages, judgments and other general tax liens.

The history and the differences between the provisions already noted would compel one to conclude that the two statutes, one providing a general lien and the other providing a specific lien for estate taxes, are distinct and separate, and tend to operate independently. It appears from the analogy thus drawn, the Supreme Court has wisely adopted the theory that the legislature had both statutes in mind when it enacted the latter, and thus intended the federal estate tax lien to work independently of the other.

S. F. W.

TORTS—PROXIMATE CAUSE—RESCUE DOCTRINE—[Federal].—At 6 A. M. on a foggy morning, defendant collided with the rear end of a truck driven by one Elias and caused the truck to become stalled on the highway. Shortly thereafter, plaintiff, a driver of a tow-truck, passing the scene, offered to pull the Elias truck off the highway because of its danger to other motorists. While plaintiff was connecting a tow-line, a fourth car collided with the rear end of the Elias truck and crushed the plaintiff between the two trucks. Plaintiff brought an action against the defendant, the original wrongdoer, who contended that his negligence in colliding

22. Under §411 of the Internal Revenue Act of 1942 amending Internal Revenue Code §827(b) it is provided, "If the tax herein imposed is not paid when due, then the spouse, transferee, trustee, surviving tenant, * * * * * * * *, who receives, or has on the date of the decedent's death, property included in the gross estate under section 811(e), to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property sold by such spouse, transferee, trustee, surviving tenant, * * * * * * * *, to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien provided in section 827(a) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, * * * * * * * * * * * *, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth." This amended provision tends to remedy the problem in part by making the surviving tenant personally liable for any unpaid estate tax on property received at or after the death of the decedent. In the case of John Hancock Mut. Life Ins. Co. v. Helvering (App. D. C. 1942) 128 F. (2d) 745, where insurance passed under a contract in favor of special beneficiary, the court held that an insurance company, holding proceeds of life policies after decedent's death, is not a "transferee" within the meaning of the statute but such beneficiary is the only person personally liable for the tax.

23. United States v. National Surety Co. (U. S. 1920) 254 U. S. 73; Spokane County v. United States (U. S. 1929) 279 U. S. 80; United States v. San Juan County (D. C. W. D. Wash. 1922) 280 Fed. 120; United States v. McGuire (D. C. D. N. J. 1941) 42 F. Supp. 337.

24. (1866) 14 Stat. 107, as amended (1928) 45 Stat. 875, c. 852 §613, 26 U. S. C. A. §§3670-3677.

with the Elias truck was not the "proximate cause" of the plaintiff's injuries because of the intervening act of the fourth driver. From a judgment for the plaintiff, defendant appeals. *Held:* Affirmed. Under the "rescue doctrine" the chain of causation was not broken by an intervening act, since it was a normal reaction for plaintiff to go to another's assistance in an emergency. Since the defendant brought about the intervening cause by his original wrongful act, he should have foreseen these consequences might occur as a result of his negligent act. *Rovinski v. Rowe.*[1]

In the early cases the tendency was to be satisfied with the result that the only actionable cause was the cause which actually did the injury[2] and to give little if any legal significance to the original cause which made it possible for the intervening cause to be set in operation. Today, because of the number of automobile accidents arising out of negligent driving, the courts have found it necessary to extend the liability of wrongful actors beyond the confines of former rules which, while more nearly acceptable at the time of their inception, are definitely too narrow for modern law.[3] The majority of the modern courts hold that if the intervening act might reasonably have been foreseen or anticipated as the natural or probable result of the original negligence, the original negligence will be regarded as the proximate cause of the injury.[4] The original wrongdoer is not required to foresee the injury in the exact form in which it results, or to anticipate the precise results which flow from his original negligent act or omission of duty.[5]

The operator of an automobile must exercise reasonable care in driving on the highway and must take into consideration conditions of fog, mist, and darkness.[6] And should an accident occur by reason of the fact that the driver's view is impaired by mist or fog or darkness, as in the principal case, the defendant cannot escape liability by showing that the injury resulted because of the negligence of a third person in contributing to the results, and that the accident and injury would not have happened "but for" the third person's negligence.[7] The defendant's negligence in the driving of his automobile started a chain of events creating a dangerous and existing condition, and the injury resulting therefrom was the proximate consequence of the defendant's act.[8]

Policy and fairness demand that the loss should fall on the wrongdoer,

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1. (C. C. A. 6, 1942) 131 F. (2d) 687.
2. Coy v. Dean (1928) 222 Mo. App. 67, 4 S. W. (2d) 835.
3. Szabo v. Tabor Ice Cream Co. (1930) 37 Ohio App. 42, 174 N. E. 18.
4. Daneschocky v. Sieble (1917) 195 Mo. App. 470, 193 S. W. 966.
5. Ft. Wayne Drug Co. v. Flemion (1931) 93 Ind. App. 40, 175 N. E. 670.
6. Reed v. Ogden & Moffett (1930) 252 Mich. 362, 233 N. W. 345.
7. 3 Blashfield, *Cyc. of Automobile Law* (1935) §§2551, 2552.
8. Upton v. Town of Windham (1902) 75 Conn. 288, 53 Atl. 660, 96 Am. St. Rep. 197; Holmberg v. Villaume (1924) 158 Minn. 442, 197 N. W. 849; Campbell v. City of Stillwater (1884) 32 Minn. 308, 20 N. W. 320, 50 Am. Rep. 567; Dugan v. St. Paul & D. R. Co. (1889) 40 Minn. 544, 42 N. W. 538. Beale, The Proximate Consequences of an Act (1920) 33 Harv. L. Rev. 633, 650.

rather than on the injured person.[9] This holding is commensurate with the doctrine that the intrusion of an intervening agency does not always excuse the original wrongdoer.[10] In order to excuse the defendant the intervening cause must produce the injury alone without the negligence of the defendant contributing to the result in the slightest degree.[11] In the principal case, the two events were not disconnected independent incidents, for the stage was set, so to speak, when defendant's negligent act came to rest in a dangerous and active condition. The intervening act of negligence following the defendant's negligent act in a natural and ordinary sequence, was foreseeable[12] by the defendant so that he is not relieved from liability because of the intervening negligence of another.[13]

On a foggy night the defendant could not without being guilty of negligence proceed blindly along the highway with confidence that he was the only motorist, but as a reasonable man, he should have anticipated that others might be using the highway irrespective of the weather. The defendant should have known from ordinary experience that he was under a duty to take all necessary precautions to protect other motorists and guard against any possible collisions. The time which elapsed between the occurrence of the two collisions was of little or no importance because the appearance of the fourth automobile upon the scene was foreseeable and the chain of causation remained unbroken so long as the highway continued to be blocked. Although the defendant could not have foreseen the coming of the plaintiff in the role of a rescuer, he is as responsible as if he had, for danger invites rescue.[14] Under the circumstances plaintiff's actions were reasonable and arose from the situation created by the negligence of defendant. It is submitted that if the accident had occurred on a clear day, the decisions of the court would have been contra to the holding in the principal case. It would then have been possible for the driver of the fourth automobile to become aware of the danger and be in a position to deal with it, while the defendant would have been free to assume that he would act reasonably. M. H. F.

9. Carpenter, Workable Rules For Determining Proximate Cause (1932) 20 Calif. L. Rev. 471.

10. Early v. Burt (1932) 134 Kan. 445, 7 P. (2d) 95 (aff'd) 135 Kan. 717, 12 P. (2d) 1117; Fergus Lane v. Atlantic Works (1872) 111 Mass. 136.

11. State of Maryland v. Hecht Co. (1933) 165 Md. 415, 169 Atl. 311.

12. Morrison v. Medaglia (1934) 287 Mass. 46, 191 N. E. 133. Plaintiff was driving on the highway when defendant negligently collided with plaintiff's automobile overturning it on the opposite side of the road. A third driver coming from the opposite direction failed to stop on seeing the overturned automobile with the result that one of the wheels of his car came through the window of plaintiff's car and caused the death of plaintiff's wife. Held: what happened should have been anticipated by defendant when he negligently overturned the Morrison car, and his negligence was the proximate cause of the death of plaintiff's wife.

13. State v. Hecht (1933) 165 Md. 415, 169 Atl. 311; Lane v. Atlantic Works (1872) 111 Mass. 136; Handyside v. Powers (1887) 145 Mass. 123, 13 N. E. 462; McIntire v. Roberts (1889) 149 Mass. 450, 22 N. E. 13, 4 L. R. A. 519, 14 Am. St. Rep. 432; Koelsch v. Philadelphia Co. (1893) 152 Pa. 355, 25 Atl. 522, 18 L. R. A. 759, 34 Am. St. Rep. 653; 1 Sherman & Redfield, *A Treatise on the Law of Negligence* (6th ed. 1913) §§32, 34.

14. Wagner v. International Ry. Co. (1921) 232 N. Y. 176, 133 N. E. 437, 19 A. L. R. 1.