DOUGLAS HODGSON

The Law of Intervening Causation

THE LAW OF INTERVENING CAUSATION

This book is dedicated to my wife Chandra Kala Rai and to the memory of the late Right Honourable Bora Laskin who served as the Chief Justice of the Supreme Court of Canada between 1973 and 1984

The Law of Intervening Causation

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PART I
Introduction

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Chapter 1

Introduction

Proving the causal connection between the defendant's negligence and the plaintiff's damage is often a straightforward matter. For example, a typical motor vehicle accident may be attributable to the negligent driving of one or both of the drivers. Proof of causation through the application of the traditional so-called 'but for' test yields a simple result that the accident would not have occurred but for the negligent driving which becomes a necessary condition of the plaintiff's loss. Proof of the causal connection may become more complicated, however, when subsequent events conspire with the situation generated by the defendant's negligence to produce the plaintiff's loss. What if the plaintiff's injuries are made worse by subsequent negligent medical treatment administered at a nearby hospital to which the plaintiff was taken? What if the pain and disability accompanying such injuries result in a state of depression which eventually drives the plaintiff to suicide? In other contexts, how is causation resolved when a merchant vessel which has been damaged through the negligent navigation of another vessel sinks while *en route* to port for repairs during an extraordinary and unseasonal storm? Or what is the situation where a person is injured while attempting to rescue another person who has been imperilled by the negligence of the tortfeasor? Application of the 'but for' test would yield the result that the defendant would be liable for everything which followed the negligent conduct – the negligent medical treatment, the suicide, the sinking of the vessel and the injury to the rescuer – because none of the events would have transpired without that negligence. But is that fair? In such cases, the defendant could plausibly argue that he or she should not be liable where an act or event has intervened between the defendant's negligence and the plaintiff's injury. The defendant may argue that his or her conduct no longer operates as the effective legal cause of the plaintiff's injury, having been replaced by the intervening act or event which is said to have broken the chain of causation. Such a chain-breaking event is referred to by English judges as a *novus actus interveniens* and by US commentators as a 'superseding cause'. If the intervening event breaks the chain of causation, such event rather than the defendant's negligence will be considered the effective cause of the plaintiff's injury in attributing legal causal responsibility. It has been a long-standing judicial technique to focus on certain intervening events which, in conjunction with the defendant's default, precipitate or aggravate the plaintiff's injury.[1] The crucial question becomes whether the defendant is to be held liable for loss caused by or contributed to by the

1 J. Fleming *The Laws of Torts* (Law Book Company Ltd, 9th edn, 1998) 246.

intervening event. As we shall see, the answer to this question depends on a variety of considerations and is subject to the application of varying legal tests.[2]

A *novus actus interveniens* may take three different forms. From the abovementioned examples, it may consist of the conduct of the plaintiff (the suicide), the act (or omission) of a third party (the hospital and its employees), or some natural event or coincidence independent of any human agency (the extraordinary and unseasonal storm).[3] The legal effect of a successful *novus actus interveniens* plea is to absolve the defendant or original wrongdoer of legal liability or further legal liability.[4] As is the case with the duty of care and remoteness of damage ingredients of any cause of action in negligence, the *novus actus interveniens* doctrine is a judicially-developed liability limitation device. One US commentator has observed that what a court is really concerned with in determining whether intervening events constitute a superseding cause is some rule of law which restricts liability short of requiring the defendant to pay for all the harm caused by the breach of duty, and that such a restrictive rule is inevitably based on policy considerations.[5] In *Lamb* v *Camden London Borough Council*[6] Lord Denning M.R. stated:

> The truth is that all these three – duty, remoteness and causation – are all devices by which the courts limit the range of liability for negligence or nuisance. As I said recently '…it is not every consequence of a wrongful act which is the subject of compensation. The law has to draw a line somewhere'. Sometimes it is done by limiting the range of the persons to whom duty is owed. Sometimes it is done by saying that there is a break in the chain of causation. At other times it is done by saying that the consequence is too remote to be a head of damage. All these devices are useful in their way. But ultimately it is a question of policy for the judges to decide.

As a limitation of liability device, the onus rests on the defendant to persuade the court that the intervening event 'so overwhelms the original wrongdoing that the original wrongdoer [the defendant] avoids responsibility.'[7] Or, as Singleton L.J. put it in *Philco Radio and Television Corporation Ltd* v *J. Spurling Ltd*,[8] 'the onus is on the defendants to show that there was a new act intervening which relieves them from responsibility.'

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2 These tests include reasonable foreseeability, unreasonableness/abnormality, voluntary human action, probability/likelihood, and the content and scope of the duty of care. They will be analysed in detail in subsequent chapters.

3 J. Murphy *Street on Torts* (LexisNexis, 11th edn, 2003) 294–5; A.M. Dugdale and M.A. Jones (eds) *Clerk & Lindsell on Torts* (Sweet & Maxwell, 19th edn, 2006) [101], para. 2–78.

4 *McKew* v *Holland & Hannen & Cubitts (Scotland) Ltd* [1970] SC 20 (HL); *Mitchell* v *Rahman* [2002] MBCA 19 (Manitoba CA) para. 30.

5 L.H. Eldredge *Modern Tort Problems* (George T. Bisel Company, 1941) 209.

6 [1981] QB 625 (CA) at 636.

7 *Mitchell* v *Rahman* [2002] MBCA 19 para. 31.

8 [1949] 2 All ER 882 at 886 (CA) citing *Dominion Natural Gas Co. Ltd* v *Collins and Perkins* [1909] AC 640. See also the judgment of Viscount Haldane in *The 'Metagama'* (1927) 29 *Lloyd's List Law Reports* 253 (HL).

In cases where the defendant has raised a *novus actus*, commentators and some judges have found it useful to analyse the causation issues by subdividing them into 'factual causation' and 'legal causation'. As Buxton L.J. has recently reaffirmed in *Roberts* v *Bettany*,[9] resolving *novus actus* issues involves a determination of mixed questions of fact and law. The first step in the causal enquiry is to determine whether or not the defendant's negligence factually caused the plaintiff's loss. This is the factual causation stage. This is resolved by determining whether the defendant's negligence was a necessary condition in a set of conditions jointly sufficient to produce the plaintiff's injury, and cases involving intervening events are no exception.[10] Determining the question whether the defendant's negligent act or omission is a factual cause of the plaintiff's loss entails ascertaining whether the defendant's negligence was a *causa sine qua non* or *conditio sine qua non* (necessary condition) of the occurrence of that loss.[11] This is established through the application of the 'but for' test. The defendant's conduct satisfies the but for test in circumstances where without his or her wrongful conduct the plaintiff's loss would not have occurred. Factual causation is sometimes alternatively referred to as 'scientific causation' in the sense that physical laws or the laws of physics are relied on to determine whether there is an uninterrupted sequence of cause and effect stretching from the defendant's breach of duty to the sustaining of the plaintiff's injury.[12] Only if the defendant's negligence is shown to have factually caused the plaintiff's loss will the causal enquiry proceed to consider legal causation – that is, whether the defendant's conduct should be attributed with legal responsibility for that loss. Legal causation is sometimes alternatively referred to as 'attributive causation'. Legal causation does not involve the finding of the physical facts and their causal inter-relation but rather the separate and value-laden question of the extent to which the community should go in requiring the defendant to pay for damages which his or her conduct has in fact been a significant factor in producing along with the intervening agency. This is a question of substantive law.[13] As the answer to the legal causation enquiry involves intuitive and evaluative judgements[14] based on the judicial application of concepts of fairness and justice[15] and various public policy considerations,[16] predictability

9 [2001] EWCA Civ. 109, para. 12.

10 S. Yeo 'Making Sense of Liability for Intervening Acts' (1997) 5 *Torts Law Journal* 45, 49.

11 P.E. Nygh and P. Butt (eds) *Butterworths Australian Legal Dictionary* (Butterworths, 1997) 172.

12 Eldredge, *Modern Tort Problems*, 205.

13 Ibid., 207.

14 Ibid., 208; M. Jones 'Multiple Causation and Intervening Acts' (1994) 2 *Tort Law Review* 133.

15 W. van Gerven, J. Lever and J. Larouche *Cases, Materials and Texts on National, Supranational and International Tort Law* (Hart Publishing, 2000) 395; A. Linden and B. Feldthusen *Canadian Tort Law* (Butterworths, 8th edn, 2006) 402; Dugdale and Jones *Clerk & Lindsell on Torts* [101], para. 2–78.

16 J. Fleming *The Law of Torts* (Law Book Co. of Australasia Pty Ltd, 2nd edn, 1961) 193; Dugdale and Jones *Clerk & Lindsell on Torts* [101], para. 2–78. When deciding a case, judges need to consider whether their particular decision will be beneficial or harmful

and uniformity in the decided cases are unattainable. Nevertheless, courts in the common law world have evolved over the past two centuries certain legal rules and tests which have been applied in resolving legal causation issues in cases involving intervening forces and these will be examined in forthcoming chapters.

Causation issues arising in the civil law context do not admit of easy resolution in many instances. Professor John Fleming has remarked, '[c]ausation has plagued courts and scholars more than any other topic in the law of torts.'[17] It is submitted by this writer that this comment applies *a fortiori* in relation to *novus actus* cases. Judges and commentators alike have noted the challenging nature of these cases. One scholar has referred to 'the vexed question of *novus actus interveniens*'.[18] A Canadian judge has recently commented, '[w]hether or not the intervening conduct amounts to a *novus actus interveniens* is a question that has plagued the courts for centuries.'[19] Tucker L.J. of the English Court of Appeal once stated, 'these questions of causation and of *novus actus interveniens* are always difficult.'[20] Perhaps it may be said that tackling intervening causation issues may be likened to 'having to draw a line between night and day; there is a great duration of twilight.'[21]

Why, then, have intervening causation cases proven so difficult for judges and scholars? One significant factor is that such cases appear to be impervious to any universal test. It is not easy to work out from the cases what test is to be applied in deciding whether an intervening event has broken the chain of causation.[22] Lord Wright confessed 'I find it very difficult to formulate any precise and all-embracing rule.'[23] This has resulted in a situation in which not all cases can be reconciled.[24] That there is no such all-embracing formula to cover all intervening causation cases is due in part to the varying nature of intervening events and their surrounding circumstances.[25] These cases are very much fact- and circumstance-sensitive. In two *novus actus* cases, the High Court of Australia has stated that whether the chain of causation has been broken is 'a matter of circumstance and degree'[26] and 'a matter of fact and degree'[27] to be decided on the facts of each particular case. The judgment

for society generally. See C.R. Symmons 'The Function and Effect of Public Policy in Contemporary Common Law' (1977) 51 *Australian Law Journal* 185, 189 (the essential function of public policy 'is to bring into judicial consideration the broader social interest of the public at large').

17 J. Fleming *The Law of Torts* (Law Book Company Ltd, 9th edn, 1998) 218.

18 B. McMahon and W. Binchy *Irish Law of Torts* (Butterworths, 2nd edn, 1990) 53.

19 *Mitchell* v *Rahman* [2002] MBCA 19 (Manitoba CA) para. 30 *per* Philp J.A.

20 *Philco Radio and Television Corporation Ltd* v *J. Spurling Ltd* [1949] 2 All ER 882, 885 (CA).

21 *Hobbs* v *London and South Western Ry Co.* (1875) 10 LRQB 111, 121 *per* Blackburn J.

22 F. Trindade and P. Cane *The Law of Torts in Australia* (Oxford University Press, 3rd edn, 1999) 493.

23 *Lord* v *Pacific Steam Navigation Co. Ltd ('The Oropesa')* [1943] 1 All ER 211, 213 (CA).

24 McMahon and Binchy, *Irish Law of Torts*, 53.

25 C. Baker *Introduction to Tort* (Law Book Company, 2nd edn, 1996) 225.

26 *Chapman* v *Hearse* (1961) 106 CLR 112, 122.

27 *Mahony* v *J. Kruschich (Demolitions) Pty Ltd* (1985) 156 CLR 522, 528.

of Lord Wright in *The Oropesa*[28] is replete with references to the determinative influence of fact and circumstance in resolving intervening causation issues. The New Zealand Court of Appeal has also acknowledged the central role fact and circumstance perform in adjudicating upon *novus actus* pleas.[29] Such fact-sensitivity and the absence of an all-embracing legal test, combined with evaluative, intuitive and policy-driven judicial approaches, 'lend[s] a certain measure of imprecision and unpredictability to [*novus actus*] decisions'.[30]

A further concern in this field of causation law is an obscuring of legal analysis induced by what might be referred to as terminological multiplicity. Judges have resorted frequently to metaphor and descriptive terms suggestive of some mechanical process.[31] So, for example, it has been asked whether the 'chain of causation' has been broken. Did the intervening event 'isolate' or 'insulate' or 'eclipse' the defendant's conduct or was it a 'more conduit pipe' or 'transmission gear set in motion by the defendant'?[32] In delivering the judgment of the Board in *British Columbia Electric Railway Co. Ltd* v *Loach*,[33] Lord Sumner decried the use of the many epithets judges have relied on in addressing the causal enquiry:

> 'Efficient or effective cause,' 'real cause,' 'proximate cause,' 'direct cause,' 'decisive cause,' 'immediate cause,' '*causa causans*,' on the one hand, as against, on the other, '*causa sine qua non*,' 'occasional cause,' 'remote cause,' 'contributory cause,' 'inducing cause,' 'condition,' and so on. No doubt in the particular cases in which they occur they were thought to be useful or they would not have been used, but the repetition of terms without examination in other cases has often led to confusion…

Professor Fleming has argued that such epithets and metaphors 'spell the illusion of scientific and objective reasoning, but are in reality only a screen behind which judges have all too often in the past retreated to avoid the irksome task of articulating their real motivation'.[34]

Similarly, in intervening causation cases, judges have resorted to using Latin phrases such as *novus actus interveniens*, *causa sine qua non* (a cause without which the event could not have occurred)[35] and *causa causans* (an immediate or effective cause).[36] Lord Normand has argued that although '[i]t has often been said

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28 *Lord* v *Pacific Steam Navigation Co. Ltd ('The Oropesa')* [1943] 1 All ER 211 (CA). See also the judgment of Lord Simonds in *Hogan* v *Bentinck West Hartley Collieries (Owners) Ltd* [1949] 1 All ER 588, 593 (the effect of a *novus actus* 'can only be answered on a consideration of all the circumstances…').

29 See the judgment of Woodhouse J. in *Pallister* v *Waikato Hospital Board* [1975] 2 NZLR 725, 745 and the judgments of North P. and Turner J. in *McCarthy* v *Wellington City* [1966] NZLR 481, 511 (North P.), 517 (Turner J.).

30 J. Fleming *The Law of Torts* (Law Book Company Ltd, 9th edn, 1998) 247.

31 M. Jones, 'Multiple Causation and Intervening Acts', 133; J. Fleming *The Law of Torts* (Law Book Company Ltd, 9th edn, 1998) 247.

32 *Weld-Blundell* v *Stephens* [1920] AC 956, 986 *per* Lord Sumner.

33 [1916] AC 719, 727–8 (JCPC).

34 J. Fleming *The Law of Torts* (Law Book Company Ltd, 9th edn, 1998) 247.

35 B. Garner (ed.) *Black's Law Dictionary* (West Group, 7th edn, 1999) 211.

36 Ibid.

that Latin phrases cannot help to solve problems of causation…they are sometimes so convenient a label that the careful avoidance of them becomes an inverted kind of pedantry.'[37] Other senior judges and eminent scholars disagree. Professor Goodhart has argued:

> To call a cause a *novus actus interveniens* is not to give a reason for the Court's decision, but to state a result that has been arrived at on other, perhaps intuitive, grounds…These decorative [Latin] phrases are harmless so long as we realise that they have no definite meaning, but they are dangerous when we accept them at their face value and therefore fail to seek the true reason for a rule.[38]

In the celebrated rescue case of *Haynes* v *Harwood*[39] Maugham L.J. remarked, '[t]he criticisms of jurists on the Latin terms used in a great number of reported cases may well be, and are, I think, well founded; the maxims "*novus actus interveniens*" and "*volenti non fit injuria*"…are vague and uncertain and may easily be misunderstood.'[40] In a similar vein, Lord Hobhouse of Woodborough laments, 'causation as discussed in the authorities has been complicated…by the use of metaphor and Latin terminology, e.g., *causa sine qua non*, *causa causans*, *novus actus* and *volenti*, which in themselves provide little enlightenment and are not consistently used.'[41] This judicial deprecation of the utility of the particular Latin term '*novus actus interveniens*' is, with respect, misplaced in this writer's view. As we shall see shortly, it does have a relatively precise meaning. In the context of legal or attributive causation, it signifies a break in the causal chain between the defendant's breach of duty and the plaintiff's injury thereby exonerating the defendant either from liability or further liability. This Latin phrase does have a 'definite meaning'. Any vagueness or uncertainty stems not from any imprecision in defining the term itself but rather from confusion over which legal tests will be applied and in which circumstances in order to determine whether, in the view of the court, a *novus actus* plea should succeed in exculpating the defendant. The balance of this monograph will be devoted to attempting to dispel some of this confusion.

It is necessary at this point to attempt to define a number of concepts which will be frequently used in subsequent chapters. These terms are 'intervening force', '*novus actus interveniens*' and 'superseding cause'. An intervening force is an event extraneous or additional to something else preceding it. It may be an act which is independent of the initial act starting the chain of events leading to the plaintiff's injury, and which has the potential to break the chain of causation between the defendant's

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37 *Hogan* v *Bentinck West Hartley Collieries (Owners) Ltd* [1949] 1 All ER 588, 596 (HL).

38 A.L. Goodhart 'Rescue and Voluntary Assumption of Risk' (1934) 5 *Cambridge Law Journal* 192, 201.

39 [1935] 1 KB 146 (CA).

40 Ibid., 160–61.

41 *Reeves* v *Commissioner of Police of the Metropolis* [2000] 1 AC 360, 391 (HL). See also the judgment of Lord Hoffman in *Environment Agency (Formerly National Rivers Authority)* v *Empress Car Co. (Abertillery) Ltd* [1999] 2 AC 22, 29 (HL) where His Lordship refers to the phenomenon of judges being driven to take refuge in metaphor and Latin.

negligence and the plaintiff's injury.[42] Temporally speaking, an intervening force is an event that comes between the initial event (being the defendant's negligence) and the end result (being the sustaining of the plaintiff's injury). If the intervening force is considered by the court to be strong enough to relieve the defendant of liability, it becomes a superseding cause (in the US vernacular) or a *novus actus interveniens*.[43] 'Intervening force' is defined by the American Law Institute's *Restatement of the Law of Torts, Second* as 'one which actively operates in producing harm to another after the [defendant's] negligent act or omission has been committed'.[44] A distinction is sometimes drawn between dependent and independent intervening forces. A dependent, intervening force is one which operates in response to a stimulus arising out of a situation created by the defendant's negligence; an independent intervening force is one the operation of which is not stimulated by a situation created by the defendant's conduct.[45] The latter is one that operates on a condition produced by the antecedent cause but in no way results from that cause.[46] Dependent intervening forces usually take the form of human actions while independent intervening forces often comprise some natural event.[47] A '*novus actus interveniens*' is essentially an intervening force which has been adjudged by a court for the purposes of legal and attributive causation to be the effective cause of the plaintiff's loss. An early definition of a *novus actus* accepted by Vaughan Williams L.J. in *In re Etherington and the Lancashire and Yorkshire Accident Insurance Company*[48] was as follows:

> [*novus actus interveniens*] means some new and independent thing started, which together with the existing cause…ultimately causes a certain result; you must have something that may be called a new intervening cause, in order to prevent the existing cause…from being said to be the real effective cause of what has happened.[49]

For a later act or event to constitute a *novus actus* it must be 'a new act which gives a fresh origin to the after consequences'.[50] A concise and useful definition of '*novus actus interveniens*' is an independent, intervening event, for which the defendant is not legally responsible, which breaks the chain of causation between the defendant's

42 Nygh and Butt, *Butterworths Australian Legal Dictionary*, 629.

43 Garner, *Black's Law Dictionary*, 212.

44 (1965–79) s. 441. (1). This definition was accepted by the US Third Circuit Court of Appeals in *American Mutual Liability Insurance Co.* v *Buckley & Co. Inc.* 117 F. 2d 845 (1941).

45 *Restatement of the Law of Torts, Second* (American Law Institute, 1965–79) s. 441. (1) Comment 466.

46 Garner, *Black's Law Dictionary*, 212.

47 Trindade and Cane, *The Law of Torts in Australia*, 493. Professor Fleming argues that such dichotomy 'involves a somewhat artificial distinction between later events that act on a situation already created by the defendant and conditions existing at the time of the wrongdoer's conduct which are – so to speak – part of the stage set for his activity'. See J. Fleming *The Law of Torts* (Law Book Company Ltd, 9th edn, 1998) 246.

48 [1909] 1 KB 591 (CA).

49 Ibid., 598.

50 *Haber* v *Walker* [1963] VR 339, 349 *per* Lowe J. See also *Turner* v *Koren* (1932) 1 WWR 480 (Alberta CA) (the intervention should constitute a fresh independent cause).

negligence and the plaintiff's injury, thereby absolving the defendant from liability for that injury.[51] While English judges and scholars tend to use the term '*novus actus interveniens*', their US counterparts prefer the phrase 'superseding cause', which has been defined as '[a]n intervening act that the law considers sufficient to override the cause for which the original tortfeasor was responsible, thereby exonerating that tortfeasor from liability'.[52] Thus, the two terms are interchangeable. Superseding cause has alternatively been defined as 'an act of a third person or other force which by its intervention prevents the [defendant] from being liable for harm to another which his [or her] antecedent negligence is a substantial factor in bringing about'.[53]

Two developments have emerged which have impacted on defendants raising the *novus actus* plea. These are the statutory codification of the common law contributory negligence defence and the overruling of the decision of the English Court of Appeal in *Re Polemis & Furness, Withy & Co. Ltd*.[54] As mentioned earlier, one of the three forms a *novus actus* most commonly takes is the conduct of the plaintiff himself or herself. Now that contributory negligence and apportionment legislation has been enacted in most common law jurisdictions, it is possible for the defendant to plead the statutory contributory negligence defence to reduce the quantum of damages otherwise payable. As we have already seen, however, a successful *novus actus* plea is more advantageous to the defendant in that he or she will be absolved absolutely from having to pay damages. Under the common law, a successful contributory negligence plea also had the same effect. Thus, *novus actus* no longer has the same effect *vis-à-vis* contributory negligence but has an enhanced effect from the defendant's standpoint.[55] The second development mentioned concerned the overruling by the Judicial Committee of the Privy Council in *The Wagon Mound (No. 1)*[56] of *Re Polemis* in which the Court of Appeal overturned previous case-law by abolishing reasonable foreseeability as the test of remoteness of damage in negligence actions. As a consequence, this limitation of liability device was lost to defendants between 1921 and 1961 and they were forced to resort more often to the chain-breaking *novus actus* to exonerate themselves. In delivering the judgment of the Board, Viscount Simonds rued the substitution by the Court of Appeal of the 'direct consequence' test for that of reasonable foreseeability which, in His Lordship's view, 'leads to nowhere but the never-ending and insoluble problems of causation'.[57] No doubt Viscount Simonds had in mind the increasing resort to *novus actus* pleas by defendants over this period. Since the resurrection of reasonable foreseeability as the remoteness test by the Privy Council in 1961, defendants have had restored to their arsenal an additional limitation of liability device thus making resort to *novus actus*

51 Nygh and Butt, *Butterworths Australian Legal Dictionary*, 803.

52 Garner, *Black's Law Dictionary*, 213.

53 *Restatement of the Law of Torts, Second* (American Law Institute, 1965–79) s. 440.

54 [1921] 3 KB 560 (CA).

55 The relationship between *novus actus* and contributory negligence (under both the common law and statute) will be examined more closely in Chapter 18.

56 *Overseas Tankship (UK) Ltd* v *Morts Dock & Engineering Co. Ltd (The Wagon Mound (No.1))* [1961] AC 388 (JCPC).

57 Ibid., 422.

not as imperative as before that date. Nonetheless, as we shall see, defendants still continue to plead *novus actus* on a fairly consistent and regular basis.

It remains to set out the aims of this monograph and its structure. The remaining chapters will examine on a comparative basis how the courts in the leading common law jurisdictions of the United Kingdom, the United States of America, Canada, Australia and New Zealand have applied *novus actus interveniens* in actions in tort. The focus will be a civil, rather than criminal, law perspective. The historical evolution of the *novus actus* concept will be traced and a humble and modest attempt will be made to identify and examine the application of various *novus actus* tests, to distil general principles from the case-law, and monitor emerging trends. The judicial application of the *novus actus* doctrine will then be observed in specific contexts and types of cases such as maritime incidents, natural events, rescue and suicide cases, professional negligence, and children. The influence exerted by policy considerations upon *novus actus interveniens* and its relationship with remoteness of damage issues and contributory negligence and apportionment legislation will also be canvassed prior to the author's concluding thoughts and summary in the final chapter.