by statute continue after a corporation had ceased to do business in, and had withdrawn all agents from the state. *Mutual Reserve Fund Life Assn. v. Phelps*, 190 U.S. 147, 23 Sup. Ct. 707, 47 L. Ed. 987 (1903). By applying the combined propositions as to substituted service and liability to service after removal from state, the court concluded that the service was proper in the principal case. However, the Washington statute made no provision for notice being sent by the state officer designated to be served to the foreign corporation. In this the statute differed from those under consideration by the court in the two cases cited by it as sustaining the above propositions. *American Railway Express Co. v. Royster*, *supra* and *Mutual Reserve Fund Life Assur. v. Phelps*, *supra*. Seemingly, the instant decision goes beyond prior holdings in the field of substituted service upon foreign corporations. See Washington Supreme Court decision in principal case, 169 Wash. 688, 15 P. (2d) 660 (1932), commented on in 33 Col. L. Rev. 359 (1933), 81 Univ. Pa. L. Rev. 469 (1933).

JOHN P. BARNES, JR.

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**Torts—Gross Negligence—Interpretation of "Host-Guest" Automobile Statutes—**[Nebraska].—P was a guest in D's automobile. Against P's admonition D drove at 65 miles per hour and lost control of the car which crashed injuring P. *Held*, under a statute providing that a host shall not be liable to a guest injured in the former's automobile unless his driving was grossly negligent, that judgment for P be affirmed. *Morris v. Erskine*, 248 N.W. 96 (Neb. 1933).

Several states have adopted "host-guest" statutes respecting automobiles incorporating such phrases as: "intoxication . . . . or wilful misconduct," Cal. Deering's Gen. Laws, Act 5128 (1931), § 141¾; "intentional injury . . . . heedlessness . . . . or reckless disregard," Conn. Gen. Stats. (1930), § 1628; "wilful and wanton misconduct," Ill. Smith-Hurd's Rev. Stats. (1933), c. 121, § 243; "intoxication or reckless operation," Iowa Code (1931), c. 251, § 5026; "gross negligence or wilful and wanton misconduct," Mich. Comp. Laws (1929), c. 73 § 4648; "under influence of intoxicating liquor or gross negligence," Neb. Laws of 1931, c. 105; "intentional . . . . gross negligence . . . . intoxication . . . . reckless disregard," Ore. Code Ann. (1930), §§ 55–1209.

"Guest" is variously defined in these statutes, but usually refers to a non-paying invited passenger. See *Russell v. Parlee*, 115 Conn. 687, 163 Atl. 404 (1932). Aside from such statutes the general rule is that the host owes his invited guest the duty of exercising ordinary and reasonable care. See 12 Mich. L. Rev. 685 (1914). Quite apparently the legislative purpose is to abandon the general rule and to expose the host to an action only when he has created an extraordinary hazard. *Naudzius v. Lahr*, 253 Mich. 216, 234 N.W. 581 (1931).

The main issue in applying such statutes is the interpretation of the phrases: "gross negligence," "wanton and wilful misconduct," et cetera. *Slobodnjak v. Coyne*, 116 Conn. 545, 165 Atl. 681 (1933).

Under a "host-guest" statute employing the term "wilful or wanton misconduct" one might expect a court in applying it to hold to be actionable only deliberate and intentionally committed wrongs. But, surprisingly enough, not only have statutes reading "wilful and wanton" been construed to include acts of gross negligence, but the concept of gross negligence has been interpreted as being "wilful and wanton." *Oxenger v. Ward*, 256 Mich. 499, 240 N.W. 55 (1932); *Denman v. Johnson*, 85 Mich. 389, 48 N.W. 565 (1891); 42 C.J. 892.

The idea that "gross negligence" is an anomaly is widespread. This view is exemplified by the dictum of Baron Rolfe in *Wilson v. Brett*, 11 M. & W. 115: "I said I could see no difference between negligence and 'gross' negligence; that it was the same thing with the addition of a vituperative epithet." On the other hand some consider it as synonymous with "intent," although it is usually styled, euphemistically, as "wilful or wanton misconduct." *Atchison, Topeka, Kansas Ry. Co. v. Baker*, 79 Kan. 183, 98 Pac. 804 (1908). But many courts recognize that "gross negligence" has a meaning as negligence of some sort, distinct from the negligence ordinarily sufficient to warrant a recovery at common law. *Milwaukee & St. Paul Ry. v. Arms et al.*, 91 U.S. 489, 23 L. Ed. 374 (1875); *Denman v. Johnson, supra.*

"Host-guest" statutes open a new field for the use of such concepts as "gross negligence," "recklessness," and "heedlessness." Seemingly the terms signify a type of negligence lying between ordinary negligence actionable apart from statutes and intentional injury. See *Rauch v. Stecklein* 20 P. (2d) 387 (Ore. 1933); *Castro v. Lingh* 21 P. (2d) 169 (Cal. 1933); *Slobodnjak v. Coyne, supra.* If this were not so, these laws would need only to abolish the host's duty of any care toward his guest, since no provision is essential to support the latter's recovery for deliberately imposed injuries. In view of the changing attitude towards the feasibility of "comparing negligences" for other purposes, the notions that there can be no degrees of negligence, and that gross negligence is an anomaly, are becoming questionable. See Bohlen, Studies in the Law of Torts (1926), 536–543; Mole and Wilson, A Study of Comparative Negligence, 17 Corn. L. Quar. 333, 604 (1932).

JOSEPH JENNINGS ATTWELL, JR.