

by being referred to as being "as self-evident as a preliminary axiom in Euclid."

What has been said as to the savings bank tax applies with equal force to the tax upon fire insurance capital. In neither case are the taxes assessed upon any basis of proportionality or equality to meet the public charges of government, as is the case with those levied upon public service corporations and individuals, and neither should be taken into consideration in assessing the taxes required to be levied upon such corporations or individuals.

Cheshire, }  
July 2, 1906. }

GAUDETTE, *Adm'x*, v. BOSTON & MAINE RAILROAD.

CASE, to recover for injuries resulting in the death of Philip Gaudette, the plaintiff's intestate, who accidentally fell into a vat of hot alkaline solution while at work in the defendants' repair yard at Keene. The defendants' motion for a nonsuit was granted, and the plaintiff excepted. Transferred from the October term, 1905, of the superior court by *Peaslee, J.*

*Joseph Madden*, for the plaintiff.

*John E. Allen* and *Streeter & Hollis*, for the defendants.

PARSONS, C. J. The motion was properly granted. The deceased was an intelligent man and was familiar with the surroundings and methods of doing business. There was no evidence that the defendants' knowledge of the danger from which the injuries resulted was, or could have been, superior to that of the plaintiff's intestate. *Dube v. Gay*, 69 N. H. 670. Whether rules should have been adopted by the defendants, which if enforced would have prevented the leaving of the pair of wheels near the south-westerly corner of the vat into which the deceased fell, is immaterial, because there was no evidence tending to show that the presence of the wheels caused or contributed to his fall.

*Exception overruled.*

All concurred.