

*Criminal Code—Mr. Church*

Minister (Mr. Bennett) gave his support to the appointment of a committee of both houses to go into this problem. He has taken a great deal of interest not only in public health measures, but in matters relating to hospitals and medicine. Last year he told me in the house he would give me a committee, but that was rather late in the session and I did not have an opportunity to attend to it. The matter should be dealt with in the criminal code and should apply to all provinces, because whether a man is killed by a burglar's pistol shot or by a motor car makes very little difference, because he dies anyway.

At common law all the king's subjects, including drivers of any kind of vehicle, had a lawful right to travel upon and use every part of the highway, and a cause of action arose only when one used the highway in an unreasonable or careless way, or in a way causing damage or loss to another. The liability of the owner or driver of a motor vehicle is not new law but is based upon admiralty law and the general common law respecting negligence, and includes all cases of injury by any other sort of traffic on the highway. Mr. Justice Hodgins said in 1926 in the Yellow Cab case—Volume 59, Ontario Law Reports, 1926,—referring to the motor statute:

That statute is really a collection of duties and obligations imposed upon drivers and others, based on the use and operation of motors on highways for which owners of cars are made responsible. It is not intended to be exhaustive as to all other liabilities which arise at common law or otherwise due to the negligence of a servant who is in charge.

The common law right of an action for damages has been replaced in motor accidents by an action under the act for negligence of a definite kind, and the owner or driver is liable for damages because of that negligence. The common law regarding the use of highways goes back to ancient times. The law on motor vehicles commenced in 1903 with 3 Edward VII, chapter 27, as amended in 1905 and almost every year since.

I have dealt with the principle of the bill, Mr. Speaker, and coupling what I have said to-night with the debate which took place in the house last year, you cannot blame me for feeling a little aggrieved. I was chairman of the board of police commissioners in Toronto for several years, and I saw these deaths occur by hundreds, yes, and injured by thousands, but it was almost impossible to get anything done to prevent them. I have great sympathy with anyone who is suffering, and I appeal to the two lady members of this house to support this bill. I have seen men, women and children,

[Mr. Church.]

injured in motor car accidents, carried away in ambulances, and it is my duty to bring this matter to the attention of the house as I did last year. I do not blame any member of the house particularly, because this is a new parliament and hon. members may not have had an opportunity of bringing the matter up. I do hope that something will be done to stop this slaughter.

I notice that one of the motor league men in Toronto is opposing this bill. Of course they will oppose this bill, just as when I was on the board of police commissioners in Toronto some people opposed the erection of traffic lights and the making of stop streets in the city. They said it was ridiculous to compel a motorist to stop at an intersection, and all that kind of thing. Everybody knows the accidents that have been caused, for instance, at level crossings, and if every driver were careful there would be no necessity for a law such as this, but it is our duty to guard the people of this country against reckless drivers. Only a few days ago at Mimico four young fellows were driving at sixty miles an hour and all four of them were killed. In another case in the police courts there in the county a driver was clocked going at ninety miles an hour up Yonge street, and another was doing seventy-five miles an hour on Yonge street. What chance have women and children with drivers like those on the roads? Have pedestrians no rights on the highways for the upkeep of which all the people pay?

Children playing on the street are the most frequent single cause of pedestrian accidents. Then comes accidents from children darting from behind a parked car or crossing the street between intersections. We should recognize that the automobile driver has some rights and see that children and everybody else cross only at intersections, instead of doing all this jay-walking. As I said at the outset, pedestrians themselves are very largely to blame for many of these accidents. When one considers the lot of the pedestrian, he has been from time immemorial looked upon as of an inferior order, and the only safe place when we see some drivers coming down our highways is to climb up on the bank, keep out of the way and give the reckless driver the right of way.

This bill may not be perfect, but it is the only way in which I can bring the matter before the house at this session. By the law of New York, motor buses are compelled to stop and throw open their doors when they come to level crossings. Everybody knows how the big motor buses are eating into the