

other words it must be of such a nature that the person guilty of it might and ought to have known that neglect in that particular would, or probably might, cause appreciable positive danger to life or health, and whether this was so or not must depend upon the circumstances of each particular case." Vol. 2 Stephen's History of Criminal Law, p. 123.

Although it is manslaughter, where the death was the result of the joint negligence of the prisoner and others, yet it must have been the direct result wholly or in part of the prisoner's negligence, and his neglect must have been wholly or in part the proximate and efficient cause of the death, and it is not so where the negligence of some other person has intervened between his act or omission and the fatal result. *R. v. Ledger* (1824), 2 F. & F. 857.

If a person is driving a cart at an unusually rapid rate, and drives over another and kills him, he is guilty of manslaughter though he called to the deceased to get out of the way, and he might have done so, if he had not been in a state of intoxication. *Reg. v. Walker* (1862), 1 C. & P. 320.

In the application of the English common law, the prevailing rule is to exclude contributory negligence on the part of the deceased as an excuse in a criminal case. *Reg. v. Jones* (1870), 11 Cox C.C. 544, disapproving *Reg. v. Birchall* (1866), 4 F. & F. 1087; *Reg. v. Swindall* (1846), 2 Cox C.C. 141; *Reg. v. Dant* (1865), 10 Cox C.C. 102; *Reg. v. Hutchinson* (1864), 9 Cox C.C. 555.

And in a recent Canadian case it was held that contributory negligence is no defence to the criminal prosecution under Cr. Code secs. 247 and 284, of a light and power company for causing grievous bodily injury by omitting without lawful excuse to take reasonable precautions against endangering human life in the care of the company's electric wires, *R. v. Yarmouth Light and Power Co. Ltd.* (1920), 56 D.L.R. 1, 53 N.S.R. 152, 34 Can. Cr. Cas. 1, and see annotation to that case, 56 D.L.R. at p. 5.

In cases of homicide the rule is established in many of the United States that one who wantonly or in a reckless or grossly negligent manner does that which results in the death of a human being, is guilty of manslaughter although