

of a street car with an automobile which had become stalled owing to rails protruding at a highway crossing: *Kuusisto v. Port Arthur*, 31 D.L.R. 670, 37 O.L.R. 146.

In an action against a municipality for injuries sustained by the driver of a car as the result of a defective culvert across the highway, the defence failed to establish the plaintiff's non-compliance with the provisions of the Motor Vehicles Act, either as to the rate of speed or as to the duty when approaching a culvert a person operating a motor vehicle shall have it under control, and operate at a speed not exceeding 12 miles an hour, particularly where he did know the culvert was there, and could not see it: *Smiley v. Oakland* (Man.), 31 D.L.R. 566.

Motor omnibuses constitute "extraordinary traffic" on the highways: *Abingdon v. Oxford El. Tram.*, 33 T.L.R. 69.

Liability of Owner when Car Driven by Another.—At common law the owner of a motor vehicle is not answerable for the negligence of the driver thereof, except where the relation of master and servant exists, and where, at the time of the negligent act, the latter was acting within the scope of his employment; and such liability can be changed by statute only by the use of distinct and unequivocal words: *B. & R. Co. v. Hugh S. McLeod*, 7 D.L.R. 579, 18 D.L.R. 245; 5 A.L.R. 176, 7 A.L.R. 349.

Under the Manitoba statutes (5 Geo. V. c. 41, s. 63a) the owner of a motor car is not liable for an injury while the car is being driven by another, unless the injury was caused by the negligent or wilful act of the driver: *McIlroy v. Kobold* (Man.), 35 D.L.R. 587.

The provisions of the Ontario Motor Vehicles Act (6 Edw. VII. c. 46) abrogate to some extent the common law rule that the master of a vehicle is exempt from responsibility if his servant does an injury with the vehicle when, outside the duties of his employment, he is out at large on an errand or frolic of his own. Though the owner may not be responsible in a penal aspect for violation of the Act, unless he is personally present, he becomes personally responsible in damages where there has been a violation of the Act by his vehicle: *Verral v. Dominion Automobile Co.*, 24 O.L.R. 551 (distinguished in *B. & R. Co. v. McLeod*, 7 D.L.R. 579; 5 A.L.R. 176; 18 D.L.R. 245; 7 A.L.R. 349).

Under s. 35 of the Motor Vehicles Act (c. 6, Alta. statutes 1911-12), the owner of an automobile is liable in damages as well as the driver who is using the car with the owner's sanction or permission for injuries sustained by a third party in consequence of the driver's negligence: *B. & R. Co. v. McLeod*, 18 D.L.R. 245, 7 A.L.R. 349, reversing 7 D.L.R. 579, 5 A.L.R. 176; *Witsoe v. Arnold and Anderson*, (Alta.), 15 D.L.R. 915.

S. 19 of the Motor Vehicles Act, 1912, c. 48, R.S.O. 1914, c. 207, which provides that the owner of a motor vehicle shall be responsible for "any violation of the Act," does not relieve the plaintiff in a negligence action for personal injury against such owner from the obligation of obtaining a finding that the accident was caused by a violation of the Act for which the defendant was responsible. (Per Riddell and Leitch, JJ.) *Lowry v. Thompson*, 15 D.L.R. 463, 29 O.L.R. 478.

Under s. 19 of the Motor Vehicles Act, 2 Geo. V. (Ont.) c. 48, R.S.O.