

gests and this irrespective of any statute regulating and controlling the use of motor vehicles and whether or not the driver of the horse holds up his hand to indicate the trouble with the horse; and the greater the danger capacity of the car the greater is the degree of care and caution incumbent on the motorist in its use and operation.

Where an automobile is meeting a horse and buggy on the highway and is frightening the horse, and under the provisions of the Motor Vehicles Act (N.B.) 1911, 1 Geo. V. c. 19, s. 4, s-s. 4, the motorist, violating its provisions in not stopping his car, incurs a fixed penalty by way of fine for the violation, this penalty is additional to, not in lieu of, civil damages to the person injured by the motorist's negligence.

Where an automobile is meeting a horse and buggy on the highway and is frightening the horse, and fails to comply with the direct provisions against negligence enacted by the Motor Vehicles Act (N.B.) 1911, 1 Geo. V. c. 19, his violation constitutes evidence of negligence.

The statutory requirements of the Motor Vehicles Act (N.B.), 1 Geo. V. c. 19, for the public regulation and control of the use on highways of automobiles, do not limit or interfere with the common law remedy for negligence, but they give other remedies directed to other ends.

In an action by the plaintiff for personal injury for negligence against the driver of an automobile on meeting a horse and buggy on the highway, and the consequent frightening the horse, it is not contributory negligence by the plaintiff to whip up his horse and pass the motor car on the embankment side of the road, where the evidence shewed that the plaintiff was accustomed to driving horses and that the means he took, by using the whip, to urge his horse ahead and keep it on the road, were reasonable and proper under the circumstances, and that the law of the road in New Brunswick required the plaintiff to pass on the left-hand side where the embankment was.