

L.R. 145. It may be taken as establishing that there was no substantial wrong or miscarriage in the direction by the trial court that in a criminal case the degree of negligence which renders a man culpably negligent is greater than in a civil case; but while so affirming the result in the trial court and in the Saskatchewan Court of Appeal, some of the opinions in the Supreme Court of Canada contain dicta which would support the proposition that there is no such difference between negligence involving criminal responsibility and negligence which results in civil responsibility at least in the Province of Saskatchewan which was the jurisdiction appealed from. The questions of criminal responsibility becoming enlarged or diminished under Cr. Code sec. 247 because of differences in the various provincial laws dealing with civil negligence was not considered. The reference to "reasonable" precautions in Code sec. 247 gives room for much difference of opinion as to the scope of criminal responsibility and as to how far the question of reasonableness of the precaution or care referred to in Code sec. 247 may, on the one hand, be a question of fact only for the jury and, on the other hand, a question of law for the court.

The development of the Criminal Code of Canada (with the exception of the practice clauses) from the draft English Criminal Code which did not become law in England, tends to show that Code sec. 247 was framed solely with reference to the criminal responsibility under the English common law as applied to crimes, and that it may be treated as a definition of what is sometimes termed "gross negligence" and sometimes "negligence per se" in the criminal courts.

Carelessness is criminal and, within limits, supplies the place of direct criminal intent. Bishop on Criminal Law 313.

In Sir James Fitzjames Stephen's History of the Criminal Law of England (1883) it is said in reference to manslaughter by negligence that the legal and popular meanings of the word are nearly identical as far as the popular meaning goes; but in order that negligence may be culpable "it must be of such a nature that the jury think that a person who caused death by it ought to be punished; in