

Charge to Grand Jury.

THE CHIEF JUSTICE IN THE SUPREME COURT.

The King vs. Edgar Templeman.

You have been called together today to consider a bill which the Crown is preferring against Edgar Templeman, charging him that on the 15th day of October, 1921, at St. John's in the Electoral District of St. John's, he unlawfully killed John Valentine. The charge in the bill of indictment is manslaughter, and it is the essence of this offence that there is no intention whatever on the part of the accused to take away life. A person, having no intention to cause death or even injury is blameless in neglecting some legal duty towards another, and if his neglect has had fatal consequence for another he is subject to indictment. It is what is known as involuntary manslaughter. We each and all of us owe to the other the legal duty of so using whatever belongs to us as not to interfere with the proper use or exercise by our neighbour of his legal rights. That is a fundamental principle of our Common Law.

Here the deceased was in the exercise of his legal right in crossing the street, and in the right of the pedestrian has to be respected by the motorist. The motor car was coming down Water Street, going east, on its way from Leslie Street to Spencer Street, Forest Road, and should have been on meeting any other vehicle on the north side of the street. After passing the deceased lay on Water Street within a few feet of the curb line on the south side of the street near the Grace Building. The south-west rail of the south street car track is fourteen feet from the curb, and Mr. Valentine lay south of the south line of rails. If the car had been proceeding on or near the north side of the street, it is evident that its right of way must have been towards this point. The fact is that it was the left wheel of the car that passed Mr. Valentine. He had been seen by the occupants of the car. From the time he was seen the car is said to have gone six car lengths before it stopped in the cove. It stopped in Bowring's lane on the eastern side, about two or three lengths according to one witness. The car did not pass over Mr. Valentine. It is said by one of the witnesses that the car was going at normal speed. On the question of what is a proper speed for a car I have but to repeat an instruction already given from this bench and fully concurred in by every member of this Court, that it is not sufficient for anybody to say "my carriage or my car was going slowly," but it has to be shown that it was under such complete control that it could be brought up before it ran into a pedestrian in front of the car who was seen by its occupants, especially where the pedestrian's conduct is not shown to have been at fault—or, in any words, that the driver exercised proper control over the management of the car and was not culpably negligent. It may be that a person indicted may be able to show that there was no culpable negligence on his part, and that nothing he could have done could have avoided the occurrence, but where a human life is taken those who take it are required to make such explanation.

Gentlemen, it is no part of your duty to enter upon a trial of the case. It is your function to satisfy yourselves that the charge is not frivolous, or baseless, that it has substance and calls in the public interest for further investigation. Being satisfied of that, it is your duty to find a true bill so that the case both for the defence as well as the prosecution may be heard before a trial jury. A plan will be placed before you showing the scene of the occurrence, from which it would seem that the deceased was in the act of crossing the street; and here let me say that the pedestrian has exactly the same right to the street as any other person, who may be there in a carriage or motor car. A pedestrian is not confined to the sidewalk. His rights on the street are equal to those of any driver of a vehicle. All that the pedestrian is required to do is to look to either side and in front, and those who drive, even those in charge of the street cars—notwithstanding that the street cars are given by statute a right-of-way, have to look out for what is in front. The motor driver or the carriage owner has no preferential right-of-way. In no respect are their rights greater than those of the pedestrian, and while you will be very careful to consider the rights of the accused, you must not disregard the public duty that is cast upon you, and that is that, where a charge of this kind is not unfounded, it should not be stifled in the secrecy of the Jury Room, but should in the ordinary and proper course be submitted to a jury to be heard in public. Gentlemen, I ask you to hear and hear the witnesses.

I make a Specialty of Engraving French Ivory. If you want to enhance the beauty of her portrait, have her initials engraved and beautifully finished in any stone desired, by KARL S. STAPNELL, 307 Water Street, St. John's, Nfld.

NEWART'S (Hornet) 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 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