

## HOMICIDE BY NEGLIGENT ACT—CONTRIBUTORY NEGLIGENCE.

An interesting case of quasi-criminal law, *Rex v. Yarmouth Light and Power Co.*, came before the Supreme Court of Nova Scotia, wherein it was decided that contributory negligence is no defence to the criminal prosecution 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. (Crim. Code, ss. 247, 284). The subject was discussed in an annotation to a report of the case in 56 D.L.R., p. 5, which reads as follows:—

Homicide is culpable when it consists in the killing of any person, either by an unlawful act or by an omission, without lawful excuse, to perform or observe any legal duty, or by both combined. Criminal Code R.S.C. 1906, ch. 146, sec. 252.

Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform such duty. Cr. Code, sec. 247.

A corporation is not subject to indictment upon a charge of any crime the essence of which is either personal criminal intent or such a degree of negligence as amounts to a wilful incurring of the risk of causing injury to others. *Reg. v. Great West Laundry Co.* (1900), 3 Can. Cr. Cas. 514. Sections 247 and 252, as to want of care in the maintenance of dangerous things, do not extend the criminal responsibility of corporations beyond what it was at common law. *Ibid.*

Although a corporation cannot be guilty of manslaughter, it may be indicted, under Code, sec. 222 as to common nuisances, and possibly also under sec. 284 (causing bodily injury) for having caused grievous bodily injury by omitting to maintain in a safe condition a bridge or structure which it was its duty to so maintain, and this notwithstanding that death ensued at once to the person sustaining the grievous bodily injury. *Reg. v. Union Colliery Co.* (1900), 3 Can. Cr. Cas. 523, 7 B.C.R. 247, affirmed, 4 Can. Cr. Cas. 400, 31 Can. S.C.R. 81.

Under sec. 247 a corporation may be indicted for omitting, without lawful excuse, to perform the duty of avoiding danger to human life from anything in its charge or under its control. The fact that the consequence of the omission to perform such duty might have justified an indictment for manslaughter in the case of an individual is not a ground for quashing the indictment. *Union Colliery Co. v. R.* (1900), 4 Can. Cr. Cas. 400, 31 Can. S.C.R. 81.