

shall be driven on the right half of a highway. There was plenty of room for the defendant-chauffeur to have driven on the right or south side of the track. It was less convenient to do so, and he, therefore, crossed to the north side, but in doing so he was bound to respect the rights of others and to use such precaution as might be necessary to avoid accident. I am of opinion that the terror of the deceased, at the approach of the automobile, was due proximately and primarily to the manner in which defendant-chauffeur guided his machine and that, as a consequence, there was no negligence on the part of the deceased for which plaintiff can be held responsible in law.

"*Sington, on Negligence on page 133*, says:—"If the negligent act of any person places another in a position of peril, and in his endeavor to escape the peril he does something which causes an injury, he can maintain his action against the negligent person; and it makes no difference that he would have escaped injury if he had not taken that step."

"Sington's further observations are pertinent to this case. He says:—"In such a case, although the efficient cause of the injury is the action the injured person himself takes, and therefore he contributes to the accident, he is not guilty of contributory negligence; because the original negligence has brought about a condition of things from which his action naturally or reasonably arises, and there is no negligence on his part at all." (*See also Sington, 40, 41, 42.*)

"This question has also been decided by even so high an authority as the Court of the King's Bench of our province. In the case of *Therrien vs. The City of Montreal*, the Court of Review held—confirmed by the Court of King's Bench:—"Que l'acte du fils de la de-