

CRIMINAL RESPONSIBILITY FOR NEGLIGENCE IN MOTOR CASES.

The invasion of our roads and streets by motor vehicles of every sort and description and for all purposes of travel and traction has brought in its train litigation both civil and criminal.

One of these cases, *The King v. McCarthy*, reported fully in 59 D.L.R. 206, was carried to the Supreme Court of Canada from the Saskatchewan Appellate Court and will be found in 61 D.L.R. at p. 170. The finding of the Supreme Court was to the effect that a person driving an automobile on a public street is under a legal duty to use reasonable care and diligence to avoid endangering human life. If he fails to perform that duty without lawful excuse he is criminally responsible for the consequences.

This liability would seem to be so obvious as not to require a judicial pronouncement. It served however to bring forth a collection of authorities on the subject, which will be found in the following annotation in a recent number of the *Dominion Law Reports* which reads as follows:—

The first statutory enactment in Canada declaring the criminal responsibility of persons in charge of dangerous things was that contained in the Criminal Code of 1892, (Can.), ch. 29, sec. 213. That section was carried into the Criminal Code of 1906 as section 247, and reads as follows.—

"247. 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."

This enactment appears to have been intended to declare the criminal liability already existing at common law. Sir James Fitzjames Stephen in his *Digest of the Criminal Law of England* states the related proposition based upon the common law as follows:—