

Section 19, with the amendments made in 1917, by 7 Geo. V. ch. 49, sec. 14, and in 1918, by 8 Geo. V. ch. 37, sec. 8, reads: "The owner of a motor vehicle shall be responsible for any violation of this Act or of any regulation prescribed by the Lieutenant-Governor in Council, unless at the time of such violation the motor vehicle was in the possession of some person other than the owner without his consent, express or implied, not being a person in the employ of the owner, and the driver of a motor vehicle not being the owner shall also be responsible for any such violation."

The Bonner-Worth Company were in the habit of selling waste wood to their employees, and they allowed Murray, the driver of their motor-truck, and a duly licensed chauffeur, to use the truck after business hours for the purpose of carrying wood to the houses of other employees. When the accident occurred, Murray was operating the truck for this purpose—he was then in the company's service, but was not using the truck upon the company's business. Claude Gray, the injured boy, was upon the running board of the truck, with the permission of Murray, when the truck was struck by a street-car owned by the defendant railway company. The boy was thrown to the ground and seriously injured.

There was ample evidence to justify the finding of the jury that both drivers were guilty of negligence causing the accident; and there could be no doubt of the liability of the railway company.

Murray, although using his master's truck, of which, while engaged upon his master's business, he was the driver, was using it for a purpose of his own or of a fellow-employee—he was not in any way engaged upon his master's business; and no liability could at common law attach for an act of negligence in no way connected with his employer's interest, but arising solely from the private business in which he was then engaged. *Duffield v. Peers* (1916), 37 O.L.R. 652, distinguished.

The Bonner-Worth Company, however, were liable under the provisions of sec. 19 of the Motor Vehicles Act. The learned Judge could see no reason for holding that the Act was not intended to apply to persons in the position which the plaintiff Claude Gray occupied—a voluntary passenger in the guilty vehicle—as fully as to others using the highway. The provisions of sec. 19, in view of the wide judicial interpretation already given to them by a series of decisions, including *Mattei v. Gillies* (1908), 16 O.L.R. 558, are not to be limited to cases of injuries to persons using the highway other than occupants of the motor vehicle itself, but extend to cases like the present, where the occupant of the car is in no sense a party to the use of the vehicle upon business which is not that of the owner and is not aware that the car is being so used.

There should be judgment for the plaintiffs against all the defendants for the amounts found by the jury, with costs.