

c. 48, R.S.O. 1914, c. 207, so as to incur a statutory liability for personal injuries sustained by the mismanagement of the car while under the control of the conditional vendee or of his servant, by the infringement of motor car regulations, passed under statutory authority: *Wynne v. Dalby*, 16 D.L.R. 710, 30 O.L.R. 67; affirming 13 D.L.R. 569, 29 O.L.R. 62.

Statutory Onus.—By statute (see R.S.O. 1914, c. 207, s. 23) the burden of proof is shifted upon the owner or driver of the car, that the loss or damage did not arise through their negligence or improper conduct. And where there is evidence of excessive speed and want of that degree of care, which, if exercised, the accident could have been avoided, that burden is not discharged even if there had been contributory negligence: *Hall v. McDonald*, 12 O.W.N. 407.

But this simply shifts the onus. In the absence of such provision, when a plaintiff came into court alleging damage sustained by reason of a motor vehicle on a highway, he must prove negligence or improper conduct on the part of the owner or driver; the provision removes the necessity, and makes it sufficient for the plaintiff to prove damage sustained by reason of a motor vehicle on the highway: *Bradshaw v. Conlin*, 40 O.L.R. 494, 39 D.L.R. 86.

Although by the Motor Vehicles Act (Ont. 6 Edw. VII. c. 46, s. 18), when any loss or damage is sustained by any person by reason of a motor vehicle on the highway, the onus of proof that the loss or damage did not arise through the negligence of the owner or driver of the motor vehicle is on the owner or the driver, yet the person injured or his representative must establish that the damage was sustained by reason of the motor vehicle: *Marshall v. Gowans* (1911), 24 O.L.R. 522.

S. 33 of the Motor Vehicles Act (Alta. Stats. 1911-12, c. 6) throws upon the driver of the vehicle, in all cases of accident, the burden of proof that the injury did not arise through his negligence. Even where the plaintiff admits his own negligence in crossing a highway without looking, the driver of the vehicle must prove that he could not by the use of ordinary and reasonable care have avoided the accident which resulted: *White v. Hegler*, 29 D.L.R. 480, 10 A.L.R. 57.

Under the Quebec law (R.S.Q. 1909, art. 1406), a person injured as the result of the operation of an automobile establishes fault on the part of any one in charge thereof, for which the owner is responsible. The statute 3 Geo. V. c. 19, s. 3, in effect relieves the plaintiff from proving negligence: *Woo Chong Kee v. Fortier*, 20 D.L.R. 985, 45 Que. S.C. 365.

The onus of the defendant to disprove his negligence has been held not discharged in the case of a boy struck by an automobile when sitting in a toy-waggon at the side of the part of the street devoted to vehicles: *Hook v. Wylie*, 10 O.W.N. 15, 237 (C.A.).

Negligence—What is.—Though a motor is not an outlaw, it must also be borne in mind that the driver is not the lord of the highway, but a man in charge of a dangerous thing, and so called upon to exercise the greatest care in its operation. He is required to signal before passing, and he should watch to see that his signal has been heard, and that way is being made for him to pass. An accident having occurred "by reason of a motor vehicle upon a highway," the statutory onus is upon the defendant to shew that the