

sustained by any person by reason of a motor vehicle on a highway the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle shall be upon the owner or driver." But this simply shifts the onus. In the absence of such a 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; this provision removes the necessity, and makes it sufficient for the plaintiff to prove damage sustained by reason of a motor vehicle on a highway. Whatever would before have been matter of substantial defence remains to the defendant. This ground should not prevail.

The third ground of objection was, that the learned County Court Judge told the jury that sec. 16 (1) of the Act requires the motor vehicle to be at no greater speed than 7 miles an hour etc., only if the operator has reason to believe that he is approaching a horse—that the restriction does not apply if he has no reason to believe that he is approaching a horse. Section 16 (1) says: "Every person having the control or charge of a motor vehicle . . . outside the limits of any city or town, shall not approach such horse" (i.e., a horse drawing a vehicle or upon which any person is riding) "within 100 yards, or pass the same going in an opposite direction at a greater rate of speed than 7 miles an hour" This is a specific and definite prohibition. Where the Legislature leaves anything to reasonable ground of belief, it says so, as in sec. 11 (2). Where the prohibition is clear, a mens rea is not necessary, even in criminal matters: *Regina v. Prince* (1875), L.R. 2 C.C.R. 154. Moreover, a consideration of the purpose and object of the legislation makes it clear that there could have been no intention on the part of the Legislature to rest the duty of going at not more than 7 miles per hour upon the knowledge or reasonable belief of the operator of the motor vehicle. Section 16 contains a special protection for horses on the highway in use for riding or driving. It is more reasonable to protect such horses by saying to the operator of the motor vehicle, "You must not run at a greater rate than 7 miles an hour at points in the road where you cannot see clearly 100 yards ahead," than to make the horseman take all the risk of the operator running at 20 miles an hour till he sees the horse, perhaps a few yards away. The operator of the motor vehicle can protect himself and avoid danger; the horseman cannot. The charge in this respect was erroneous.

As the verdict was general, it was impossible to say that the error might not have affected the verdict; and, consequently,