

Strafford, }  
Nov. 3, 1925. }

## CHRISTIANA E. WESTON v. LESLIE R. BROWN.

One who acts in reliance upon a false representation made for the purpose of inducing him to vary his line of conduct may recover any damages which he sustains if the statement was fraudulent or if it was negligently made. Conduct is legally wrongful when it contravenes some duty which the law attaches to the relation between the parties.

CASE, for false representations relating to the purchase and sale of a farm. Trial by jury and verdict for the plaintiff. The jury was instructed that "a person who acts upon a false representation made for the purpose of inducing him to vary his line of conduct may recover any damage he sustains if the statement was fraudulent, or if it was negligently made." Transferred by *Young, J.*, on the defendant's exception "to those portions of the charge which named negligence as a separate cause of action."

*Snow & Cooper* (*Mr. Cooper* orally), for the plaintiff.

*F. Clyde Keefe* (by brief and orally), for the defendant.

MARBLE, J. The sole question presented is whether or not an action can be maintained for negligent misrepresentation. This question was answered affirmatively in the case of *Cunningham v. Company*, 74 N. H. 435, and a further review of the authorities on the subject would appear to be unnecessary. But it is urged that the *Cunningham* case was an action for personal injuries, and is therefore distinguishable from the case at hand. Once granting, however, that damage has resulted from reasonable reliance upon a negligent misstatement, it is difficult to perceive why liability should be made to depend upon the nature of the injury sustained. Bodily harm was not an element of damage in the case of *Maxwell Ice Co. v. Company*, 80 N. H. 236, and recovery was there allowed for negligent and false representations with respect to a sale.

In this jurisdiction the principle is well established that negligent words as well as negligent deeds may constitute actionable fault. *Benoit v. Perkins*, 79 N. H. 11, 13, and cases cited. The determining factor is the same in each case — the relation of the parties. *Garland v. Railroad*, 76 N. H. 556, 565. Conduct becomes wrong-

ful when it contravenes some duty which the law attaches to that relation. See *Conway Bank v. Pease*, 76 N. H. 319, 324.

The exception is overruled.

*Judgment for the plaintiff.*

SNOW, J., did not sit: the others concurred.

Coös, }  
Nov. 3, 1925. }

CHARLES BRODY *v.* JOHN GILBERT.

The statutory provision requiring the driver of an automobile to slow down and give a signal upon approaching any intersecting way, or curve or corner in a way, is designed for the protection of travelers approaching on an intersecting way, or from a curve or corner in the road where the view is obstructed.

The statute is not intended for the protection of pedestrians crossing the highway at other places, and as to them failure to comply with the requirements of the statute is not actionable negligence.

CASE, for personal injuries caused by a collision between the defendant's automobile and the plaintiff while the latter was crossing Pleasant street in Berlin. Trial by jury and verdict for the plaintiff. Transferred by *Sawyer, J.*, upon the defendant's exception to the charge.

*Ovide J. Coulombe* (by brief and orally), for the plaintiff.

*Shurtleff, Oakes & Hinkley* (*Mr. Oakes* orally), for the defendant.

SNOW, J. Pleasant street, running north and south, crosses Mechanic street at right angles. The defendant, driving his car southerly upon Pleasant street, hit the plaintiff while crossing that street on foot at a point about thirty-two feet southerly of its intersection with Mechanic street. The plaintiff's evidence tended to show that the defendant neither slowed down his car nor sounded his horn on approaching this intersection, as required by a provision of Laws 1915, c. 129, s. 7 (amending Laws 1911, c. 133, s. 12), viz., "Upon approaching any intersecting way or curve or corner in a way, every person operating a motor vehicle shall slow down and give timely signal with his bell, horn, or other device for signaling."