

**THE LAW OF THE ROAD;
OR, WRONGS AND
RIGHTS OF A TRAVELLER**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649137558

The law of the road; or, Wrongs and rights of a traveller by R. Vashon Rogers

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

R. VASHON ROGERS

**THE LAW OF THE ROAD;
OR, WRONGS AND
RIGHTS OF A TRAVELLER**

THE
LAW OF THE ROAD;

OR,

WRONGS AND RIGHTS OF A TRAVELLER.

BY

R. VASHON ROGERS, JR.

A BARRISTER AT LAW OF OSGOODE HALL.

SAN FRANCISCO:
SUMNER WHITNEY AND COMPANY.
NEW YORK: HURD AND HOUGHTON.
Cambridge: The Riverside Press.

381
102

THE
CANADIAN
EDITION
OF
THE
LAW
OF
CARRIERS
AND
PASSENGERS
BY
LAND
AND
BY
WATER

PREFACE
TO THE
CANADIAN EDITION.

THIS little work does not aspire to compete with the learned productions of Redfield, Chitty, or Story, but merely to supply a want, felt by many to exist in this age of perpetual motion, of a plain and brief summary of the rights and liabilities of carriers and passengers by land and by water.

An attempt is made in the following pages to combine instruction with entertainment, information with amusement, and to impart knowledge while beguiling a few hours in a railway carriage, or on a steamboat. Whilst it is hoped that the general public will peruse with interest the text, containing elegant extracts from ponderous legal tomes — gems from the rich mines of legal lore — and where in many cases the law is laid down in the very words of learned judges of England, Canada, and the United States; the notes — a cloud of authorities — the index and the list of cases are inserted for the special delectation of the professional reader.

1017871

Though written in Ontario, the book will be found applicable to all parts of the Dominion, as well as to the United States and England.

The author, even if the style is deemed novel, does not seek the praise of originality for the substance of the following chapters, as the greater portion of the text, and well nigh all the notes, have been taken from the works of others, to whom all due thanks are now rendered.

How far the book is likely to be of use to the seeker after knowledge, or of assistance to those desiring to kill time, is for others to determine. If mistakes be discovered it is hoped that the reader — professional or otherwise — will bear with them, “for if the work be found of sufficient merit to require another edition, they will probably be corrected, and if no such demand is made the book has received as much labor as it deserves.”

The author is very “umble, coming of an umble family,” like the celebrated Uriah — not the Hittite, but he of the Heap tribe — and he will be quite content and satisfied if every reader, after having perused this work, says of him as Lord Thurlow said of Mansfield: “A surprising man; ninety-nine times out of a hundred he is right in his opinions and decisions, and when once in a hundred times he is wrong, ninety-nine men out of a hundred would not discover it.”

PREFACE
TO THE
AMERICAN EDITION.

IN this present year of grace the British Lion is gently purring in the centennial cry of the American Eagle; thither also, the Canadian Beaver, with a maple-leaf, the emblem of sweetness, in his mouth, has wended its way: a striking contrast to the deeds of one hundred years ago, when the followers of the quadrupeds were striving, teeth and claw, to send the lovers of the biped to that bourne from which no traveller returns.

The time seems therefore opportune for a member of the Beaver family to present to the worshippers of the mighty Eagle an edition of a little book touching upon the wrongs and the rights of those of the republic, and from distant lands, who travel upon the 74,000 miles traversed by the iron horse, or the hundreds of thousands of leagues frequented by nags of more mortal frame, on the American continent.

The following is a Canadian book, revised, enlarged, abridged (the watery element being omit-

ted),¹ and rendered more suitable to the palate of Uncle Sam by the admixture of many more of the wise sayings of the men learned in the law of the United States. Originally published anonymously, the author has been induced, by the kind notices of his little book that have appeared, to acknowledge his bantling; and he would seize this opportunity of rendering thanks to those critics who, when writing of the first edition of his work, dipped their pens into a solution of sugar and honey and not into an extract of wormwood, vinegar and gall.

R. V. R. JR.

KINGSTON, ONTARIO,
June, 1876.

¹ Also the List of Cases.

WRONGS AND RIGHTS OF A TRAVELLER.



CHAPTER I.

DRIVING.

New Year's Day. — Collision with Old Bolus. — Must I pay for my Servant's Deeds. — Deaf Man run over. — Effects of an Avalanche. — Housemaid injured by Coachman. — Wives, Snakes or Eels. — Icy Walks. — Falling Snow. — Board Walks. — Driver and driven. — Right Side or Wrong. — Look out. — Walkers. — Sunday Driving and Visiting. — Church-going. — Sunday Laws.

My life, so far as the readers of this sketch are concerned, may be taken to have commenced on the New Year's morning after I had married a wife, and set up a trap with the necessary accompaniments of a horse or two and a man.

It was my intention, pursuant to the time-honored custom, to go out in the afternoon with a friend to call upon my extensive circle of lady acquaintances. At 10 A. M. Mrs. Lawyer came into my library frantic and breathless; the palpitations of her heart having somewhat subsided, and her heaving bosom sunk to rest, she exclaimed: —

“O Eldon, that horrid John must be drunk! He took out the horse and sleigh this morning, and when driving down Main Street, he ran into Dr. Bolus’s cutter and knocked it all to pieces.”

“Ah, my dear Elizabeth, calm your troubled mind;” I coolly replied, “John, without my knowledge, and wrongfully, took my horse and sleigh for some purpose or other of his own, and ran into old Bolus’s turn-out, you say: well, the law is perfectly clear that I am not responsible for the injury, as I did not intrust my servant with the sleigh.¹ I may tell you for your edification that the general rule is that a master is not liable for the tortious act of his servant, unless that act be done by an authority, either express or implied, given him for that purpose by the master;² or as Mr. Baron Parke puts it, if a servant is going on a frolic of his own, without being at all on his master’s business, the master will not be liable.”³

“Oh, but dear Don, I forgot to tell you that I sent him to the confectioner’s for some cakes; but I told him to drive along West Street.”

“Confound it, that’s a different matter. The Doctor will rush off to friend Erskine, and I will have to pony up for the damage; because, as that rascal John was driving on his master’s business,

¹ *M’Manns v. Crickett*, 1 East, 106; *Croft v. Alison*, 4 B. & Ald. 590; *Sleath v. Wilson*, 9 C. & P. 697, qualified by *Seymour v. Greenwood*, 6 H. & N. 269, 7 H. & N. 355; *Lamb v. Park*, 9 C. & P. 631; *Sheridan v. Charltek*, 4 Daly, 338.

² *Roe v. Birkenhead, etc., Rv. Co.*, 7 Ex. 86.

³ *Joel v. Morison*, 6 C. & P. 501.