"1. Were the injuries which the plaintiff sustained caused by any negligence of the defendants? Yes.

2. If so, wherein did such negligence consist? In not having the machine properly guarded.

3. Was the machine a dangerous machine so that it ought to have been, as far as practicable, securely guarded? Yes.

4. If you answer "Yes" to the last question, was it as far as practicable, securely guarded? No.

5. Was the plaintiff guilty of negligence which caused the accident, or so contributed to it that but for his negligence the accident would not have happened? Yes.

6. If you answer "Yes" to the last question, in what did his negligence consist? In not seeing that the machine was properly guarded.

7. Or, was the casualty which resulted in the plaintiff's injuries a mere accident for which no one is responsible? No.

8. At what sum do you assess the amount of compensation to be awarded to the plaintiff in case he should be held entitled to recover? The sum of $85."

N. P. Graydon, for plaintiff.

G. S. Gibbons, for defendants.

Hon. Sir Glenholme Falconbridge, C.J.K.B.:—Their answer to the sixth question amounts to a finding that there was at hand a "splitter" or "divider" which plaintiff could have used as a kind of guard for the saw, if he had been so inclined. There was abundant evidence to support such finding.

It is evident from the amount of damages which they have awarded, $85, being about half of the damage actually proved, that there was an effort on the part of the jury, unconsciously, to carry out the Quebec rule and make plaintiff bear part of his own damage, so that I should have been glad if I could have seen my way to carry out their apparent wishes in entering the verdict, but their answer to the question regarding plaintiff's negligence inexorably prevents any recovery by plaintiff under our law.

In any event it would have been a hollow victory for plaintiff as I could not have certified to prevent a set off of costs.

I therefore, dismiss the action with costs, if exacted.

Thirty days' stay.