

justify or excuse any act of negligence. Whether what is complained of is actionable in our Courts depends upon the facts.

The jury have found the following in answer to questions:—

1. Q. Was the casualty caused by negligence or was it a mere accident? A. Caused by negligence.

2. Q. If it was caused by negligence, whose negligence caused it? A. By foreman, Mr. Cox.

3. Q. If there were such negligence, set out fully and clearly the various acts of negligence which caused or assisted in bringing about the accident. (Answer fully). A. We find that nailing the board under the rafters with nails was not sufficient to sustain the weight.

4. Q. Was there any negligence on the part of the plaintiff which caused or helped to cause the accident? A. No.

5. Q. Could the plaintiff, by the exercise of ordinary care, have avoided the accident? A. No.

(Q. 6 is immaterial).

The damages were assessed at \$1,500.

It is plain from what was said before us in argument, as well as from the cross-examination of Cox and the expert evidence of Wickwire, that the charge of negligence against Cox was, not that he had nailed up the board to the rafters, but that he had not examined the board to see that it was safe before putting the plaintiff to work under it. The jury have not found this specifically, although it is more than likely that they intended so to find. If it had been necessary in order to support this verdict to interpret the answers of the jury in that way, I should require further consideration before so doing; it is probable that the true solution would be to order a new trial.

I think that the answers of the jury were put in the shape in which they are by the direction in the charge, the only direction in reference to answering these questions: "Q. 1. Was the casualty caused by negligence, or was it a mere accident? Q. 2. If it was caused by negligence, whose negligence caused it? I shall have to ask you not only to find whose negligence it was—if there was negligence—but to say what were the specific acts of negligence. The evidence is quite fresh in your minds. Whatever you do find about the putting up of the board from which the machine was suspended, whether it was done this, that, or the other way, you are to find whether there was negligence, and state what that negligence consisted of."

The answer to question 3 seems to me to be in obedience to