

in the Court of Appeal and the grounds set up in the notice of motion to the Divisional Court (Appeal Cases, Judges' Library, vol. 167), the plaintiff relied upon the fact that questions had been left unanswered by the jury, and argued that these must all be presumed in favour of the plaintiff. Whatever may have been the reason for the decision of the Divisional Court, the Court of Appeal makes it clear that the course taken at the trial in directing judgment for the defendants was right. Mr. Justice Osler, 11 O. W. R. at p. 48, says: "A plaintiff cannot recover if his injury is the direct result partly of his adversary's negligence, and partly of his own, which has been found to be the case, and this made it quite unnecessary for the jury to deal with the other questions submitted, which, looking at the evidence and charge, are covered by the findings which proved fatal."

So in the present case, if it can be considered that the plaintiff cannot recover if she was working where she should not have been and at a point at which the master had expressly forbidden her to be, it is "quite unnecessary for the jury to deal with the other questions submitted."

In view of such cases as *Deyo v. Kingston and Pembroke R. W. Co.*, 8 O. L. R. 588, 4 O. W. R. 182, *Grand Trunk R. W. Co. v. Birkett*, 35 S. C. R. 296, *Best v. London and South Western R. W. Co.*, [1907] A. C. 209, *Markle v. Simpson*, 9 O. W. R. 436, 10 O. W. R. 9, and the like, it is impossible that the plaintiff can recover, being as she was at the time of the accident at a place at which she had been forbidden by her master to be—an accident which could not possibly have happened had she been where she should have been, if she had been doing her duty.

The action must be dismissed with costs.