

upon them; and, according to his testimony, he was driving the car carefully and at a moderate rate of speed.

The car appears to have proceeded, after the wheels dropped into the hole, for a distance of about 26 feet without its course being altered, when it went off to the side of the road and continued to travel there for a further distance of about 59 feet, and it was at that point that, while apparently Hunter was endeavouring to get the car back into the travelled road, it overturned.

A man named McKeeman was also a passenger in the car. According to his testimony, when the car "hit" the hole it veered off to the left into the ditch, and as it went into the ditch he jumped out and fell, and when he got up and looked around "the car was on top of them." Hunter, he said, was driving very carefully. There was a culvert across the road at or near the hole, and, according to McKeeman's testimony, the car "started in the ditch" when it was about 6 feet north of the culvert, "When it hit the thing" (i.e., the hole) "it bounced and went to the left."

When this witness speaks of the "ditch," I understand him to mean the side of the road.

Hunter and McKeeman were the only eye-witnesses of the accident, and the learned trial Judge gave credit to the testimony of Hunter, which, he says, "was given in a frank and unhesitating way," and he speaks of him as "a clear-headed, intelligent man."

An attempt was made by the appellant to shew that the car was being driven in a careless and reckless manner, and some witnesses testified that that was the case. It is to be observed, however, that they did not speak of anything which occurred at the place of the accident, but of what they said they saw when the car was at some distance from it; the witnesses for the defence differed, too, between themselves, some saying that the car was going at a high rate of speed, and others testifying to facts which are quite inconsistent with that having been the case; and the learned Judge was right, I think, in preferring the testimony of Hunter where it differed from that of these witnesses, assuming that his estimate of Hunter and of his testimony was correct.

Much was made during the argument of the testimony that before the accident the car was travelling on the side of the road, and not upon the travelled part of it, and of the fact that Hunter was unable to recollect whether, at the place spoken