

side, and himself fed the machine until the hour for shutting down. He contended also that the guard was perfect.

The plaintiff, on the morning of the accident, again went to the dangerous side, and in a short time her hand did get caught, with the result already stated.

The plaintiff gave evidence herself, denied the story of the defendant, and swore that she was working at the work she had been employed to do.

The story of the defendant was corroborated by two young women, fellow-employees of the plaintiff.

There was the usual contradictory evidence as to the danger, and as to the existence of defect; and the hand of the plaintiff was shewn to the jury. At the request of both counsel, I allowed the jury to inspect the machine.

I submitted questions to the jury along the usual lines, and, in view of the contentions of the defendant, I submitted the following, specifically:—

“2. Was the plaintiff, at the time of the casualty, working where she should have been working?”

“3. Had she been told not to be at that particular place?”

The jury remained out some hours, and, coming into Court, reported that they could not agree upon all the questions. Upon my inquiry, they said they could agree upon some of the questions, and I directed them to answer all the questions upon which they could agree. Thereupon they again retired, and shortly after came into Court with questions 2 and 3 answered, and reported that they could not agree upon any others. I excused them from answering any others, and discharged the jury.

The answers to questions 2 and 3 respectively were “No” and “Yes.”

I have withheld judgment in order to look into the case of *Findlay v. Hamilton Electric Light and Cataract Power Co.*, 9 O. W. R. 434, 773, in which the jury, being able to answer and answering certain questions, found themselves unable to agree as to others. I thought that the answers given were sufficient to dispose of the case; and gave judgment for the defendants. A Divisional Court granted a new trial. No written judgment was given by the Divisional Court, and I am unable to find that any reason was given for the course pursued. The Judge by the reasons against appeal