inferred, to proceed in the manner and at the speed which the evidence discloses? Or would a more reasonable man, in the circumstances, have seen that to do so was dangerous, and that the only safe course was to keep the car back until the child was put out of the way?

The defendants' counsel does not appear to have moved for a nonsuit, nor did he even object to the charge, so far as the record before us shews. The defendants now ask that the action should be dismissed, because there is no evidence to support the finding of the motorman's failure to observe the child; and, in strictness, I think . . . that that is so. But the criticism is verbal rather than substantial, for the finding, in the light of the evidence and the charge, may not unreasonbaly be read as a finding that the motorman should have stopped the car, under the circumstances, in time to have avoided the accident.

The utmost relief which this Court can or should, in my opinion, grant, would be, in the exercise of our discretion, to direct a new trial, to which I agree, chiefly on the ground . . . that there seems to be no substantial conflict between the evidence given on behalf of the plaintiff and of the defendants; and, therefore, in a case where the line is so finely drawn, a verdict based upon the theory that there is, is not satisfactory, especially where, as here, the damages, if not excessive, are at least very substantial.

I would, therefore, allow the appeal and direct a new trial if the defendants so desire; election to be made within thirty days; the costs of the last trial and of the appeal to be costs in the cause to the successful party. If the defendants do not so elect, the appeal will be dismissed with costs.

MEREDITH, J.A., for reasons stated in writing, agreed that there should be a new trial, on the ground that the verdict was against the weight of evidence.

MAGEE, J.A., also wrote an opinion, in which he discussed the evidence, and agreed that there should be a new trial, for the reasons stated by GARROW, J.A.

MOSS, C.J.O., and MACLAREN, J.A., concurred.

New trial ordered.