

ery start. He held the oil can in his left hand, put his right hand up to feel for the oil cup, but, instead of reaching it, his hand went against the fan, which was then in motion, having been started, after the driving machinery was started, by the slipping of the belt from the loose pulley to the tight pulley.

The jurors visited the factory and had a view of the premises, and found, in answer to questions, that the injury was caused by negligence in having the arrangement of shifting lever and pulley so defective as to permit the belt to slip upon the tight pulley and start the fans when they ought not to be set in motion, and that plaintiff could not, by the exercise of reasonable care, have avoided the injury; and assessed his damages at \$1,250.

E. C. S. Huycke, K.C., for plaintiff.

R. C. Clute, K.C., for defendants, contended that upon plaintiff's own evidence he was guilty of such contributory negligence as to disentitle him to recover; that he went to the drying room in the dark, and felt for the oil cup, instead of taking off a door before going in, and in that way getting sufficient light to enable him to see the oil cup.

BRITTON, J.— . . . In my opinion, it was for the jury to say, considering all the circumstances—what plaintiff was told by the foreman as to the necessity for taking off more than one door, plaintiff's own knowledge of the place, he having for a long time been engaged at that work, his familiarity with the location of the oil, his not knowing that the fans were in motion—whether plaintiff was guilty of such negligence as to be himself to blame for this accident. The most I can do is to say that “facts have been established by evidence from which negligence may be reasonably inferred—the jurors have to say whether, from the facts submitted to them, negligence ought to be inferred.” I do not say that it ought to be inferred in this case.

It was argued that plaintiff, knowing that in starting the machinery the belt was likely to slip from the loose pulley to the tight one, should have remembered this when entering the drying room, and have assumed that the fans were in motion, and so have been careful not to place his hand even near the oil cup. It is easy to be wise after the event. Knowledge of defect or danger is not necessarily contributory negligence. A person may know, and under certain circumstances may be excused for forgetting at the particular moment. . . . I am of opinion that I could not pro-