

other E. M. F. cars, so that I would know that the standard I was trying it by was correct, and that I would come back and say whether I would finally pass that car or not."

On cross-examination he says:

"Q. What about this suggestion about a new engine; did you suggest a new engine; we have not any very clear evidence upon that? A. Perhaps I should clear that up. After we had driven in this car I asked to be driven in the other E. M. F. car, and I was driven, and also Mr. Counsell, the plaintiff's solicitor was driven, and when he came back to the garage he said: 'Give us that car, that is the only car, and we will be satisfied'; and I said later in the evening: 'Why don't you give them this engine and settle the matter up, that is what I would do if I was in a box like this,' and Mr. Shillington said he hadn't any authority, and I said: 'Well, that is not my end of it,' and that is all that passed with regard to that part of it."

Mr. Shillington was the officer of the defendant company on the spot; he communicated with the manager, and by him was directed to take the engine out of the 1912 car, a new engine, and put into the car in question, which he did October 31st. Mr. Russell came back November 1st, and made an inspection of the car so fitted. His direct examination continues:

Q. Do you know whether the 1912 gear is different from the gear of 1911? A. Do you mean the gear ratio?

Q. Yes the gear ratio? A. I believe I was told that the car I rode was of a lower gear ratio than the car in question.

Q. I am advised that other manufacturers changed their gear ratios in 1911 or 1912? A. I don't know of any general movement in that direction.

Q. Did you go down to Toronto? A. Yes.

Q. You wanted a test of 1911 cars? A. Of other E. M. F. cars.

Q. Of the 30 model of 1911? A. Yes.

Q. To see how they performed? A. Yes.

Q. And you came back to Hamilton? A. Yes.

Q. What did you find when you got back? A. They told me they had taken the motor out of the other car and put it into this one.

Q. Then did you take the car out again? A. Yes.

Q. And did you test it? A. Yes.