

pected that he keep an equally sharp lookout for vehicles coming up behind him? The additional care, suggested as incumbent on the driver on the left side, as to vehicles behind him, can consist of nothing but a constant turning around to see if another driver is about to, or desirous of, passing. Yet this might readily amount to negligence to drivers in front of him or at his side. Again, passing a team is, to a certain extent, a hazardous undertaking—certainly, at least, when the street is as narrow as it was in the principal case. It seems just, therefore, that he who undertakes such a manoeuvre should act with the greatest care; and it is not evident that such passage has been rendered more dangerous by the front driver's being on the left rather than on the right side of the street. In a practical question like this, the advisability of a rule of law should be measured by its efficiency; and it is difficult to see how travelling is made more safe by throwing the burden of additional prudence on the driver in front rather than on the one in the rear.

The court cites only one case in support of this rule, and that is a lower court decision. The prevailing view throws the peril on the party passing, regardless of the position of the driver in front. Of course, when the driver in front is aware of the desire and intention of the driver in the rear to pass, he owes him a duty to exercise reasonable care not to injure him. It seems, therefore, that the only ground upon which the court could rule that there was such evidence of negligence in the principal case as to warrant its being sent to the jury, was that the duty of the driver toward the plaintiff was so great, because of his presence on the left side, that his allowing the horses to swerve towards the fence, was a breach of it. This is open to serious criticism.