say that a full and fair trial of this action involves a direct, explicit and non-argumentative answer to the question of contributory negligence. I think they have a right to take this position and, reading some others of the answers in the light of the evidence, I cannot help thinking that the jury were not so much unable as unwilling to answer this question. It is quite a different question from the one left unanswered in *Faulkner* v. *Clifford*, 17 P. R. 363, but the principle is the same. An answer in the affirmative here, as an answer in the affirmative there, would render the other answers favourable to the plaintiff of no effect. In that case, Osler, J.A., delivering the judgment of the Court said:—

"It appears to me very clear that my brother Street was right in refusing to enter judgment for the plaintiffs. . . . A finding in favour of the defendants in answer to the first question would have been a complete answer to the action notwithstanding the other findings in favour of the plaintiffs. There was evidence to support such a finding but the jury have disagreed and have not answered the question. The trial was therefore incomplete and no judgment could be given."

For effect of failure to answer material questions, see also *Bois* v. *Midland Rw. Co.*, 39 N. S. R. 242. But there still remains the question, have they implicitly answered, or eliminated the necessity for answering this question, No. 9, by other answers as was said to be the effect in the *Rowan and Toronto Rw. Case*? I think not, but I cannot say that my mind is entirely free from doubt. It certainly was never intended, or thought of, that an affirmative answer to question No. 1 would be taken as obviating the necessity of answering No. 9, much less of being the equivalent of a negative to this question, yet part of the reasoning in the judgments in that case could, with some force, be applied here. The difference, however, in the issues presented, in the way the case was left to the jury, and in the questions themselves, lead me to think that to hold that question number 9 is in effect answered or dispensed with would be to go beyond the decision in the *Rowan Case*, and that decision goes fully as far as I desire to go. As to the effect of an affirmative answer to a general question of negligence, in *Dublin & Wexford Rw. Co.* v. *Slattery* (1878), 3 App. Cas. 1156, Lord Pensance says at pp. 1173-4:—

"In other words, the only finding upon the first issue under which the second issue could possibly arise, is a find-