

plaintiff and his comrades came to the conclusion that the explosion was caused by the presence in the barrel of the rifle of this revolver cartridge and that this was the one which failed to discharge in the third effort. There was evidence given that neither the plaintiff nor any of his comrades used a revolver in the camp or had any revolver cartridges; that the plaintiff used no other cartridges except those that he had got from the defendants.

The defendants offered no evidence, but Mr. Montgomery's cross-examination of the plaintiff was directed to shew first of all that the plaintiff was careless in loading, handling or discharging the gun, and, secondly, that the accident was not caused by the presence of revolver cartridge in the barrel, and thirdly that even if the cause of the accident was as alleged, the revolver cartridge was not in the box bought from the defendants.

At the close of the plaintiff's case, counsel for the defendants moved for a nonsuit on the ground that there could be no liability in any event assuming that the findings were all in the plaintiff's favour.

With a view to avoiding the necessity for a new trial in case a nonsuit should be wrongly granted, I left questions to the jury in order that their findings might be got upon the disputed questions of fact. Judgment on the motion for nonsuit was reserved until after the findings of the jury were obtained. The questions asked the jury and their answers are as follows:—

1. Were the plaintiff's injuries caused by the presence in the barrel of the gun of a cartridge that was too small? A. Yes.

2. If so, was such small cartridge contained in the box of 38-40 rifle cartridges purchased by the plaintiff from the defendants? A. Yes.

3. Or were the plaintiff's injuries caused by any negligence on the part of the plaintiff in loading, handling or discharging the gun? A. No.

4. At what sum do you assess the damages? A. \$500.

There is no dispute as to what took place when the plaintiff purchased the cartridges in question, and therefore no finding of the jury was required on that point. The following questions and answers taken from the plaintiff's examination and cross-examination shew what took place.