

to use more care and diligence, and to keep a better lookout than would be requisite, were he on the proper side. Again, in *Wayde v. Lady Carr* (1822), 2 Dow. & Ry. 255, the court said: "In the crowded streets of a metropolis . . . situations and circumstances might frequently arise where a deviation from what is called the law of the road would be not only justifiable, but absolutely necessary." Of course, under some circumstances a violation of the rule of the road may mean the pursuance of a negligent course of conduct; but the mere fact of the violation is no negligence. In America, where the custom is to keep on the right, and to pass a team in front on the left, the majority of courts likewise hold that a breach of the rule of the road does not, in itself, spell negligence. So it has been decided that driving on the left-hand side of the road is not actionable negligence, nor contributory negligence. The same is true of passing a team in front on the right.

This, of course, does not mean that an observance of the customs of travelling is unnecessary. That is one of the many circumstances which the jury are to take into account in determining the question of negligence. The simple question is whether the driver is exercising the care required of him; and his position, relative to the middle of the road may be all-important.

The second point decided by the court was, that though a driver is not bound to keep to the proper side, if he does not do so he must use more care and keep a better lookout to avoid collision than would be necessary on the proper side. This is a harking back to the decision of *Pluckwell v. Wilson*, supra. It is significant, however, to note that in the latter case it does not appear whether the two vehicles were going in the same or in opposite directions. This, of course, is an essential fact, as the duty of a driver to one coming towards him may not be the same as that owed to one coming behind him. It is but reasonable to demand of one driving on the left side of a street that he keep a very sharp lookout for vehicles coming towards him on the same side, and upon meeting them to turn out. But can it be ex-