damages for injury sustained by the plaintiff, while riding a bicycle on a highway, by being struck by a car of the defendants.

The appeal was heard by MEREDITH, C.J.C.P., MAGEE and HODGINS, JJ.A., and LENNOX, J.

D. L. McCarthy, K.C., for the appellants.

J. Hales, for the plaintiff, respondent.

The judgment of the Court was read by MEREDITH, C.J.C.P., who said that the appellants contended that there was no evidence upon which reasonable men could find that the driver of the defendants' car, after becoming aware of the plaintiff's danger, could have prevented the injury for which the jury had awarded him $75 damages; that the only evidence upon the question was that of the driver, and that he exonerated himself; but the Chief Justice was not able to agree with that contention in either respect. There was other very material evidence, upon the question, contained in the testimony of the plaintiff and in the circumstances of the case; and there was common knowledge which the jury were at liberty to apply to it.

The driver's story was that, when he first saw that the plaintiff was in danger from the car, he applied the brakes and threw off the power in the manner which he deemed best calculated to prevent injury; but that, then, he was so near to the plaintiff that the injury could not be prevented. If there were no other evidence upon the subject, that would exonerate the man; but there was other evidence, part of it given by this witness himself, from which reasonable men could discredit his views of his own blamelessness, and find him to be ultimately blamable.

In the first place, the jury discredited his story that, when he first saw the plaintiff, the car was only 25 feet away from him; they found that it was about 100 feet away, that is, 75 feet and half the width of Concord street (a street crossing that on which the car was running); and, if they gave credit to the story of the plaintiff as to the place where he was actually struck, the distance was more than enough to condemn the driver upon his own testimony as to what he could and should have done.

The plaintiff's story was that he was struck about 120 feet east of Concord street; and the jury found, on conflicting testimony, that the car was 75 feet west of Concord street when the driver first saw the plaintiff, which the driver said was, when he "came out of Concord street," to which distances must be added the width of Concord street, making in all considerably over 200 feet; whilst the driver's testimony was that, by succes-