better or more effective means of shewing a light from a snow-plough was known or in use. There is in truth no evidence upon which a jury could reasonably find negligence so far as the headlight was concerned.

The finding, with regard to running at an excessive speed through a thickly peopled portion of Beachville, is not complete, for all the necessary facts are not found. It appears from the testimony that in approaching the crossing from the west, the line of the defendants' tracks runs upon and along another highway—Durham street—but whether with, or without, the consent or leave of the municipality obtained before the present provisions of the Railway Act with respect to the Board of Railway Commissioners, or under leave obtained from the Board, or without such leave, does not appear.

No doubt the situation on the ground creates difficulty as to fencing or protection in the manner prescribed by the Railway Act. The facts were not developed as to those matters, and the jury were not asked to, nor have they made any finding on these points.

Then, with respect to the statutory signals, there was in this case much more testimony than is usually presented on behalf of a railway company charged with omitting the signals. For the plaintiffs there is no doubt a considerable body of testimony by witnesses who did not hear the signals. But on the other hand there is much direct and positive testimony, not alone from the train hands or employees of the defendants, but from independent and apparently disinterested parties who deposed to hearing both signals, and gave facts and circumstances tending to support the truth of their statements. In face of such testimony it is very difficult to understand how the jury could have found for the negative of the question, or to see the grounds upon which, on a reasonable view of the evidence as a whole, they could reach the conclusion that the negative evidence countervailed the much more convincing affirmative testimony adduced on behalf of the defendants.

Upon the whole case the result appears to be so unsatisfactory and inconclusive—even apart from the question raised by the replies of the foreman of the jury to the queries addressed to him after they had handed in their answers to the questions submitted to them—as to justify the granting of a new trial: Grand Trunk R.W. Co. v. Sims, 8 Can. Ry. Cases 61.

The question arising under sec. 108 of the Judicature Act, by reason of the statement made by the foreman of the jury, to the effect that, while each answer was agreed to by ten of the jury,