

the evidence, the only reasonable verdict was one in favour of the plaintiffs, charged the jury very briefly, but quite correctly, and asked them to bring in a general verdict for the plaintiffs upon their claim or for the defendant upon his counterclaim. There was no exception to the charge, except that counsel for the defendant asked that the jury be instructed as to what their duty was in case they found that both parties were to blame. The Judge complied with this request.

The jury retired, and in half an hour came back with a written verdict as follows: "We find that the defendant was negligent in cutting the corner, and we award the plaintiffs the actual damage to the car as \$135." Counsel for the plaintiffs said: "Our actual damages were more than that. They should allow us a fair amount for depreciation and a fair amount for loss of services." The Judge asked the jury whether they had sufficiently considered that question, and the foreman answered: "We looked at it that there was so much fault on both sides. We considered there were faults on both sides. They were both approaching that curve at too fast a clip, we think."

Some discussion ensued, counsel for the plaintiffs suggesting that the jury be "sent back to say whose negligence was the cause of the accident," and counsel for the defendant moving for judgment upon the foreman's answer as being the finding of the jury. The Judge did not accept the answer as such a finding, but sent the jury back to reconsider the matter, this time submitting questions to them, and again explaining what the result must be if both parties were negligent; telling them, at the request of counsel for the plaintiffs, what was meant by negligence causing the accident; and, upon the request of counsel for the defendant for an instruction that the defendant's being on the wrong side of the street might not have been the cause of the accident, telling them that they might conclude that "that had nothing to do with the accident."

On the argument of the appeal, much complaint was made as to the form of the charge in this last particular. It was not as full as it might have been, but it was not misleading; certainly it could not, in view of all the discussion, leave the jury with the impression that, if the defendant was on the wrong side of the road, the plaintiffs were at liberty to run him down.

The jury, in answer to the questions, found that the plaintiffs' damages were caused by the defendant's negligence, such negligence consisting in being on the wrong side of the street. They did not adopt the foreman's former statement that both parties were to blame, but found specifically that "there was no negligence