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JUNE 20TH, 1901.

C.A.

BALFOUR v. TORONTO R. W. CO.

*Street Railways—Negligence—Car Running Backwards—Jury—Answers to Questions.*

The plaintiff was injured by a waggon in which he was being driven being struck by an electric car of the defendants which was running backwards in a southerly direction on the easterly track in a street, which track, according to the usual custom of the defendants, should have been used only by cars running in a northerly direction. The motorman was at the northerly end of the car, and no special precautions were being observed. The jury were asked, by the Judge presiding at the trial, to say, in the event of their returning a verdict for the plaintiff, what negligence they pointed to. The jury found that the defendants were responsible for the accident, for the reasons that the car was on the wrong track and the motorman at the rear end, and judgment was entered in the plaintiff's favour for the damages assessed.

J. Bicknell, K.C., for the appellants.

John MacGregor and H. M. East, for the respondent.

THE COURT (ARMOUR, C.J.O., OSLER, MACLENNAN, MOSS, and LISTER, J.J.A.) held that this was a general verdict, which there was evidence to support, in the plaintiff's favour, with a statement of reasons which might be disregarded, and was not merely a specific finding in answer to a question.

*Per* ARMOUR, C.J.O.—Questions to the jury must be in writing.

*Per* OSLER, J.A.—While it is more convenient that questions to the jury should be in writing, the Judge is not bound to adopt that course.

Judgment of FALCONBRIDGE, C.J., affirmed.