

virtue of a contract with some one independent of his interference or control. * * * The man who disturbs, or who fails to create, a state of things which other people have a legal right to expect at his hands, is liable for such disturbance or failure. The man who maintains an insecure weight hanging over the heads of passers-by and fails in taking care that it shall not expose them to danger; the man who contracts a right of way, vertically or laterally, which the public have a right to enjoy in all its old height or width, and the man who digs a hole in a place where others have a right to expect no hole, disturbs a state of things to which they have a legal right, and does it at his peril, if an accident happens by reason of what has been done. In the same way, if the hole deprives a neighbouring house of support to which it is entitled, the disturbance of the status quo is at the risk of him who brings it about."

The above case affords a striking illustration of the fact, that while judges may give a clear exposition of the law, they often egregiously err in applying it to the facts of a particular case. The facts were briefly these:—The defendants were lawfully engaged in laying down telephone wires under the pavement of a street. The soldering of the joints connecting the tubes which held the wires was let to an independent contractor. The plaintiff was injured by the explosion of a safety lamp used in soldering, through the negligence of a servant of the contractor. The Deputy Judge of the City of London Court, who tried the case without a jury, gave judgment for the plaintiff for an agreed sum of £25. On appeal, it was held, that the defendants were not liable, on the ground that the negligence of the contractor's servant was collateral to the execution of the work which the contractor was employed by them to do. Wills, J., in delivering the judgment of the court, designates the negligence that wrought the mischief as "about as typical an instance of negligence merely casual, collateral, or incidental, as can well be conceived."

This judgment of the [Divisional Court was reversed in the Court of Appeal (1899) 2 Q. B. 392. Lord Chancellor Halsbury at page 399 remarking: "It appears to me that the telephone company, by whose authority alone these works were done, were, whether the works were done by the [company's servants or by a contractor, under an obligation to the public to take care that