

It is, I think, the fair result of the evidence that, for some reason, the plaintiffs' manager had not the question of the cohesion with the shaft actively present to his mind, perhaps from a feeling that the chief difficulty would not lie there, and that he did not invite or expect the defendants to make that the subject of their attention. They were told to direct their experiments to the curing or vulcanisation with the particular variety of rubber, the stock they were using, and might, therefore, well rely upon the suitability in other respects of the sample offered to them for the purposes of their business. It was not suggested to them to test in all respects or any but the one. Considering the little attention the plaintiffs' manager himself seems to have paid to the fitness of the cement in the very quality in which it failed, they should not be entitled to throw upon the defendants the loss arising therefrom.

There is, of course, the fact that the 3 or 4 rollers made by defendants with the plaintiffs' sample of cement did stand the pressure which those made from the subsequent bulk would not. Assuming uniformity of conditions, that would go to shew a difference in the cement.

The manager of each company is unwilling to recognise any difference or short-comings in the work of his own factory, but, however close the supervision, each must work through others, and unknown mistakes may have been made on one side or the other. Even if made on the side of the defendants, it would be in relation to a matter in which they had no intimation that the plaintiffs were relying on them, that is, in a test of cohesion, and in which the plaintiffs seem to have been somewhat remiss, perhaps through over-confidence.

The burden of supplying an article suitable for the purpose for which it was sold is thrown upon the plaintiffs, except in so far as they are able to shew that they cast that burden upon the defendants. We find the plaintiffs not inviting a test of their original sample as to the particular quality in which it failed. When the defect is made known to them, and they attempt to shew that it did not exist, we find them paying little or no attention to the real point of weakness. We find the defendants inviting the plaintiffs' representative to be present at the subsequent test of the success of that attempt which the plaintiffs considered successful, and which failed under the test. We find the plain-