

and was there any defective construction in the machinery that caused same?" said, "stop block too high from chain," and in an explanatory memorandum prepared by themselves they add: "That the stop block in Milne's mill was too high from chain, therefore causing accident at that time."

The contention of the defendant on the appeal was, in short, as follows: The proper course to liberate the log was to roll it back on the log deck. The plaintiff was doing this, but proceeded in such a careless way that one end of the log swung round and came in contact with the moving log carriage, and the other was thus thrown against the plaintiff's leg and the injury caused; that this was an accident almost unthought of, the result of the plaintiff's manner of taking off the log and in no way connected with its stoppage by the stop board or caused thereby or by any defect therein.

The jury was also asked whether the plaintiff was guilty of any negligence, and answered that he was not. It was his duty to release the log which had been stopped by the defective stop board, and it was in the discharge of this duty that the accident occurred without negligence on his part, as the jury has found.

There was evidence on which their findings might well be based. I am unable to see how, under the circumstances, the judgment can be disturbed.

I would dismiss the appeal with costs.

HON. MR. JUSTICE MIDDLETON:—My lord and my brother have no doubt in this case. To me there is much room for uncertainty, but as there is no further appeal, and a dissenting voice is of no avail, I say nothing.