

owing to the combined negligence of the employees in charge of the steam freighters "Mount Stephen" and "Kinmount," owned by the defendant Playfair and the defendant the Montreal Transportation Company, respectively, while the plaintiffs were engaged in unloading a cargo of grain from the "Mount Stephen" into the elevator, and for that purpose using an appliance known as "the elevator leg" in one of the hatches, the "Mount Stephen's" moorings parted, and she drifted backwards, thereby catching and entangling the leg in the hatch, so that it was pulled away from the elevator and smashed and rendered useless during the remainder of the season of navigation, thereby putting the plaintiffs out of the elevating business until the next season.

As against the defendant Playfair, the plaintiffs charge that the "Mount Stephen" was negligently, insufficiently, and unskilfully moored to the docks, and left without proper attention and supervision while the work of unloading was proceeding, with the result that, owing to the strain upon the mooring lines and cables occurring in the process of unloading, and to the violent disturbance of the waters of the harbour occasioned by the efforts of the "Kinmount" to turn in the vicinity of the "Mount Stephen," the latter vessel was torn from her moorings and caused the injury to the leg.

The plaintiffs' complaint against the other defendant is, that the "Kinmount" was so negligently manœuvred and handled while endeavouring to turn in close proximity to the "Mount Stephen" as violently and forcibly to affect the "Mount Stephen" at her moorings. . . .

Upon the whole, having regard to the positive testimony of Robertshaw, to whose evidence the learned trial Judge attached credit throughout, the better conclusion is, that, during the movement of the "Kinmount" alongside the "Mount Stephen," the leg was removed from hatch No. 2 and replaced after the former's stern had cleared the latter's bow. The work of unloading was proceeded with, until it was considered that sufficient grain had been removed from the forward part, when the leg was taken out of hatch No. 2, and the "Mount Stephen" was moved forward a distance of about 72 feet until the leg was over hatch No. 6 in the after part. It was then placed therein and the work resumed and continued at that point until about 4,000 bushels had been removed. Then the "Mount Stephen" commenced to drift or surge rapidly backwards, and, before the leg could be got out of the hold, it was caught and broken. . . .