

The Ontario Weekly Notes

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COURT OF APPEAL.

JANUARY 17TH, 1912.

MEAFORD ELEVATOR CO. v. PLAYFAIR.

Negligence—Unloading of Barge into Elevator—Breaking of Moorings Caused by Operation of another Vessel—Injury to Elevator Leg—Negligence of Persons in Charge of Vessels—Contributory Negligence—Damages.

Appeals by the defendant James Playfair and the defendants the Montreal Transportation Company from the judgment of TEETZEL, J., 2 O.W.N. 803, in favour of the plaintiffs as against both defendants.

The appeals were heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

F. E. Hodgins, K.C., for the defendant James Playfair.

F. King, for the defendants the Montreal Transportation Company.

A. H. Clarke, K.C., for the plaintiffs.

MOSS, C.J.O.:—This action was tried by Teetzel, J., without a jury, and resulted in a judgment for the recovery by the plaintiffs from the defendants of \$5,700 damages. The defendants' interests and defences being almost entirely separate and distinct, they brought separate appeals, which, however, were argued together. The plaintiffs' case was and is, that both defendants are liable to them. Each defendant claims that there is no liability on his part, no matter what may be the case as regards the other defendant. And both contend that the plaintiffs were guilty of contributory negligence, and that for that reason their action should fail.

The plaintiffs, the proprietors of a dock and grain elevator and plant, at or in the harbour at Meaford, complain that,