

June 24, 1893.

YORK V. CANADA ATLANTIC STEAMSHIP CO.
Nova Scotia.]

*Negligence—Passenger vessel—Use of wharf—Invitation to public—
Accident in using wharf—Proximate cause—Excessive
damages.*

A company owning a steamboat making weekly trips between Boston and Halifax occupied a wharf in the latter city leased to heir agent. For the purpose of getting to and from the steamer there was a plank sidewalk on one side part way down the wharf and persons using it usually turned at the end and passed to the middle of the wharf. Y. and his wife went to meet a passenger expected to arrive by the steamer between seven and eight o'clock one evening in November. They went down the plank sidewalk and instead of turning off at the end, there being no lights and the night being dark, they continued straight down the wharf, which narrowed after some distance and formed a jog, on reaching which Y's wife tripped and as her husband tried to catch her they both fell into the water. Forty-four days afterwards, Mrs. Y. died.

In an action by Y. against the company to recover damages occasioned by the death of his wife, it appeared that the deceased had not had regular and continual medical treatment after the accident, and the doctors who gave evidence at the trial differed as to whether or not the immersion was the proximate cause of her death. The jury when asked:—Would the deceased have recovered, notwithstanding the accident, if she had had regular attendance? replied, "very doubtful." A verdict was found for the plaintiff with \$1,500 damages, which the Supreme Court of Nova Scotia set aside and ordered a new trial. On appeal from that decision:

Held, that Y. and his wife were lawfully upon the wharf at the time of the accident; that in view of the established practice they had a right to assume that they were invited by the company to go on the wharf and assist their friends in disembarking from the steamer; and that they had a right to expect that the means of approach to the steamer were safe for persons using ordinary care, and the company was under an obligation to see that they were safe.

Held, further, that it having been proved that the wharf was