

assume that if they successfully shewed that the plaintiffs had not been guilty of contributory negligence—which had been alleged against them and had been, as their Lordships think, rightly negated by the learned Judges—it followed from their innocence that one of the defendants, they cared not which, must be guilty. Such a view is erroneous and misleading as to the way in which the evidence should be approached. Each defendant is entitled to have the case as against himself separately considered, and unless the plaintiffs make out that case they must fail.

As regards the physical cause of the accident there can be no doubt that it was a powerful rush or surge of water, which, getting in between the bow of the "Mount Stephen" as she lay at the quay and the quay, forced her away from the quay and broke the moorings. There existed no cause for the water being thus set in motion except the action of the screw of the "Kinmount." But the disastrous effect of the movement of the water really depended on the current being so directed as to get between the vessel and the quay. The main direction of the current, in their Lordships' view, is not clearly accounted for, but it may be surmised was due to the particular angle at which the "Kinmount's" stern lay, and at which her helm was directed, taken along with the reflecting angle which would be obtained by water flowing from the direction of the "Kinmount's" stern and striking against the inner end of the dock. In other words, their Lordships think, upon the evidence, that the water pressure put upon the "Mount Stephen," in the direction of driving her away from her moorings, was not a natural or anticipated result of the manœuvre, which the "Kinmount" was performing. It is here that the case against the "Kinmount" fails. She was executing an ordinary manœuvre, having been told to turn by the plaintiffs' own manager. It is true that he says she might have turned lower down, but she began to turn as she did, with no word of protest at the time, and it did not occur to anyone that there was any danger in what was being done so long as there was no collision between the vessels as the "Kinmount" passed the stern of the "Mount Stephen." The practical proof of this is that Robertshaw, who had removed the leg while collision was possible, replaced it as soon as the "Kinmount" had passed on and was content to resume operation of dipping.

Is there, then, any evidence to shew that the subsequent manœuvre of the "Kinmount" was conducted in a negligent