

shaw satisfied that the danger was passed, re-introduced the leg into the same hatch. Soon after this, having removed sufficient grain for the moment from that hatch, he ordered those in charge of the "Mount Stephen" to move the vessel forward along the quay, so as to allow of the elevator leg being introduced into hatch No. 6, the reason being in order not to disturb the trim of the vessel by lifting too much grain at one time out of the one end of the hold. The vessel was shifted forward about 70 feet, and the leg let down into No. 6, when the unloading recommenced. The mooring of the vessel was done as before. In the meantime the "Kinmount" had not found the turning so easy as expected. Starting, as already said, on a port helm, she had turned so far as to be at right angles to the line of the quay at which the "Mount Stephen" was lying, when her bow grounded in the mud at the other side of the dock. She there remained for the time stuck, and then proceeded to try and get herself round by the expedient of putting out cables from the port side to the shore of the dock on the side away from the "Mount Stephen" and so to warp herself round by means of her winches. While doing so one of the cables broke. During all this time she was also working her screw. Soon after this the wire cable, which was directed forward from amidships on board the "Mount Stephen," suddenly snapped. Almost immediately thereafter the bow manilla rope parted and the "Mount Stephen" began to drift astern. Perceiving the movement Robertshaw attempted to remove the leg from the hatch, but before he got it completely out it jammed by the continued motion astern of the boat, broke off and fell on the deck.

The present action is raised for the plaintiffs, as proprietors of the elevator, for the damage done, and is directed against the owners of the "Kinmount" and the owners of the "Mount Stephen."

The trial Judge found both defendants in fault and gave judgment accordingly. The Court of Appeal exonerated the "Kinmount," but affirmed the judgment as regards the "Mount Stephen."

The ground of action must be negligence on the part of both or either of the defendants, and the finding affirmatively of such negligence is a necessary condition of success. Their Lordships make this remark because there was in the argument a disposition, on the part of the plaintiffs' counsel, to