

convincing. Apart from the fact of its being dependent upon the correctness of a very abstruse and much controverted metaphysico-legal theory, the true scope of which is by no means settled, and which, in our humble judgment, the court has carried considerably further than the precedents warrant, the report shows that the evidence was, to say the least, susceptible of the construction that the faculties of the defendant were not confused by terror to the extent of depriving him of the power of deliberation. He seems, indeed, to have exhibited a remarkable degree of coolness which, although it was doubtless very much to his credit, may fairly be regarded as depriving him of the right to rely on the rule of the Squib Case and others of that type. As to the third ground, the arguments of the court seem to us to be based on a wholly erroneous theory of proximate cause. Assuming for the moment that the act of the defendant was actually wrongful, and that it consisted, agreeably to what has always been the popular idea of the occurrence, in pulling the plaintiff's person into such a position as to intercept the fragments of the bomb, it is surely taking an extreme view of the distinction between a mere condition and a cause to lay it down that the necessary legal connection is not established because the act merely produced the situation which allowed the explosive to do its deadly work. The court, we suppose, would scarcely deny that, if one person pushes another in front of a moving locomotive, the former is liable for any injuries the latter may receive. Is there any real difference between such an act and that of pulling a person into the line of a shower of flying fragments of metal? If so, we should be glad to know wherein the difference consists. It is submitted that the essential question arising out of this aspect of the case is not, as the court assumes, whether the defendant's wrongful act produced the explosion, but whether it placed the plaintiff's body in such a position that, by reason of the wrongful act of a third party, an injury was inflicted which would not otherwise have been received. Upon the hypothesis that the interference with the plaintiff's movements did actually create 'his local relation between the plaintiff's person and the flying pieces of the bomb, we confess ourselves unable to see how Mr. Sage can be regarded in any other light than as a joint tortfeasor with the man who exploded the bomb, and therefore liable on familiar principles for the injury.

The reasoning of the court therefore, in regard to the first and