

LORD DUNEDIN:—The plaintiffs in this case are the proprietors of a dock at the town of Meaford. In connection with the dock and on the quay thereof is a grain elevator, which belongs to the plaintiffs. The elevator is a tower-like structure, from which depends a long tube, commonly called the leg of the elevator, inside which are a travelling set of buckets on an endless chain, worked somewhat in the fashion of buckets in a dredger. The leg can be lifted up and let down, and is in practice introduced into the hatch, and then, by an adjustable device in the end of it, kept at the proper level to bail out the grain.

On the 28th of November, 1908, the steam barge "Mount Stephen" was lying at the quay, and the elevator was engaged taking grain out of her. She was secured with her stern towards the entrance of the dock, and was fastened by manilla ropes fore and aft and by two steel cables amidships attached in a fore and aft direction respectively. The cables on board the ship were led from winches round chocks, and the tightening was maintained by the steam power in the winch. Their Lordships are satisfied on the evidence, and it is so found by the Judges below, that the "Mount Stephen" was securely moored according to practice in a manner calculated to resist any ordinary strain, and to the satisfaction at the time of those in charge of the elevator.

While the unloading of the grain was going on another vessel, the "Kinmount," made its appearance in the dock, and approached the stern of the "Mount Stephen." A conversation ensued between the captain and one Wright, who was in charge for the plaintiffs; and Wright told the captain of the "Kinmount" to turn round and lie against the quay beyond the "Mount Stephen" and bow to bow with her. It did not occur to anyone that this manœuvre would be attended with danger. The "Kinmount" accordingly proceeded to steam past the stern of the "Mount Stephen," proceeding on a port helm, so as to have her bow directed towards the opposite side of the dock. In the course of this manœuvre and its inception, it became evident that the moving vessel would go very near the stern of the "Mount Stephen," and the man in charge of the elevator, one Robertshaw, fearing the effect which any collision between the ship might have on the leg of the elevator, drew up the leg of the elevator out of the hatch, No. 2, in which it was then engaged. The "Kinmount" passed on without fouling the "Mount Stephen," and Robert-