

shaft and pulley, having received a blow which drove his ribs into his heart. There was no eye-witness of the accident.

There were two theories regarding it. One put forward by the defence and accepted by the trial Judge, that the deceased, seeing the belt going, tried to keep it in its place with a stick which was found broken near where he was lying. The other, suggested by plaintiff's counsel, that a piece of wood from a band-saw, not far off, had flown against the revolving pulley which drove it violently against the deceased. This theory was adopted by the jury.

In my opinion it is quite immaterial which of these two theories is correct, or whether they are both wrong. I believe the case can be determined without deciding this question at all, it being common ground that the direct cause of the accident was the fact of the counter-shaft and pulley being suddenly put in motion, whatever the instrument or substance which actually struck the fatal blow.

The jury found the defendants negligent in that the "shifter" was insufficiently locked and allowed the belt to travel on the fixed pulley, suddenly putting the counter-shaft in motion at high speed, and that the engine should have been slowed down during the operation, also that the millwright was negligent in putting the belt on the wrong side of the large drive wheel, and in not slowing down the engine, and in leaving the cover off the counter-shaft while the shafting was in motion. They also found that the deceased was not guilty of contributory negligence or disobedience to orders, and that he did not voluntarily incur the risk of what he did at the time of the accident.

There was evidence on which the jury might properly find that it was an improper thing to throw this belt upon a wheel which was making 300 revolutions a minute; and that there was danger from the smaller wheel, which was making 1,200 revolutions a minute, and the belt travelling more than half a mile a minute, and both of them unprotected.

It was urged on behalf of the defence that the deceased himself removed the box covering from the counter-shaft, but that would appear to have been necessary in order to remove the injured belt. Once the belt was repaired and was being replaced, the millwright was the person superintending the operation, and the deceased was merely assist-