

Judgment of the Lords of the Judicial Committee of the Privy Council on the consolidated Appeals of James Clough v. The West India Electric Company, Limited; and of The West India Electric Company, Limited, v. James Clough, from the Supreme Court of Judicature of Jamaica (Privy Council Appeal No. 100 of 1912); delivered the 2nd June 1913.

PRESENT AT THE HEARING :

LORD SHAW.

LORD MOULTON.

SIR SAMUEL GRIFFITH.

[DELIVERED BY LORD SHAW.]

On the 28th November 1911 a special jury gave a unanimous verdict for the sum of 44l. 2s. damages in an action for personal injuries, the trial being presided over by Chief Justice Coll.

Against the verdict of the jury an application was made for a new trial, and the case was heard and judgment pronounced by the Full Court of the Supreme Court on the 16th April 1912. By that judgment a new trial was ordered. The judgment was pronounced in the presence of the Chief Justice, who presided, and who manifestly adhered to the view he had taken in charging the jury during the trial. The dissent from his view was expressed by the majority of the Court.

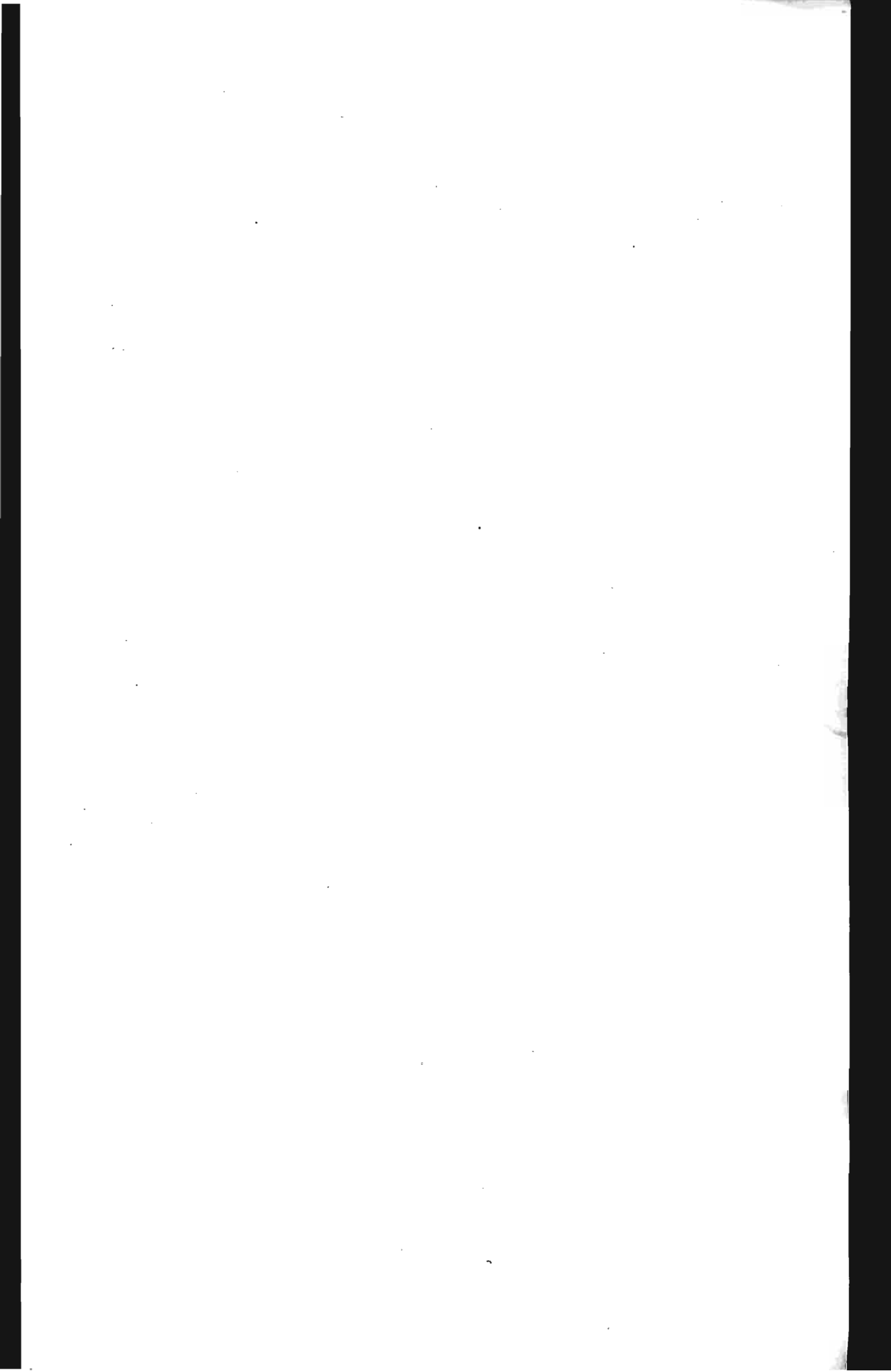
The subject is one very familiar—a street accident with conflicting accounts and suggestions

of blame: and the question is eminently one of fact. There is no new principle to be evolved or applied, there is no doubtful rule to be cleared up. But the Board are of opinion that a rule—one of procedure—not new, but sometimes apt to be forgotten, ought again to be enunciated. Unless there be some controlling reason to the contrary, when a new trial is granted on the ground that a verdict was contrary to the evidence, it is inexpedient that any judicial pronouncement should be made on the details of the evidence at the former trial, or that any ratiocination should be indulged in which might prevent a subsequent jury from taking its own view of what are within its own province alone, namely, the facts of the case. Their Lordships make no further comment on the elaborate examination of the evidence which has been made by the two Judges in the Court below, except to say that while it was re-inforced by a careful argument at their Lordships' Bar, the Board sees no reason to give effect to the views expressed in those judgments or in that argument. For their Lordships are content to refer to the judgment of the Chief Justice. It describes the facts in simple and clear language; and the Judgment is so distinguished by brevity, good sense, and sound law, that the Board not only assents to the view which the learned Chief Justice took, but goes the length of accepting every word of his language.

For these reasons their Lordships will humbly advise His Majesty that this Appeal be allowed.

The Appellant sues *in formâ pauperis*, and will have the appropriate order for the costs of the Appeals, and he will also have the costs of the proceedings in the Courts below.

The Cross Appeal will be dismissed, with costs.



In the Privy Council.

JAMES CLOUGH

?,

THE WEST INDIA ELECTRIC
COMPANY, LIMITED;

AND

THE WEST INDIA ELECTRIC COMPANY,
LIMITED,

?,

JAMES CLOUGH.

DELIVERED BY LORD SHAW.

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