

were then instructed to look into the desirability of the suggested safety device. It was stated that extensive investigation was then made, and in the result it was found that the device suggested was uncertain in its operation, and undesirable, as it removed from the operator the sense of responsibility which rested upon him when there was no such device in use, and that with the device accidents would more frequently happen than when the machinery was not so equipped.

Upon the hearing of the appeal I was very much impressed by Mr. McCarthy's argument; but a perusal of the evidence has satisfied me that, even assuming the legal validity of the contention, the facts upon which it is based are not so clearly established as to justify taking the case from the jury. I may even go further, as a very careful perusal of the evidence has satisfied me that the jury came to the right conclusion when they thought, as they evidently did, that this defence was not made out on the evidence, as there is no difficulty in adopting a simple mechanical device by which the circuit must inevitably be broken when the hook reaches a certain height.

It was said on argument that this would not bring the hoisting drum to rest, but that it might spin on and by its own momentum bring about the disaster attempted to be guarded against. But, when it appears, as it does here, that the machine is operated by a controller, which, as already stated, is nothing but a circuit-breaker, and that, upon the opening of the circuit, the brakes are applied, it is quite obvious that the contention is nothing but a subterfuge. One of the witnesses suggests that the device would be dangerous, because when once open it would need to be closed by hand, and this might not be done, thus destroying the protection. But any one having merely an elementary knowledge of mechanics can see that it would be perfectly simple to have a device which would be automatically made ready for action as soon as the hook was again lowered.

It was shewn, and not contradicted, that devices of this kind have been successfully installed and are in use upon precisely similar buildings. All this shews that the case could not have been taken from the jury, and we cannot interfere with the jury's findings.

The appeal must be dismissed with costs.

BOYD, C., and LEITCH, J., agreed.

RIDDELL, J. :—This is not the case of employers, in view of an accident, having taken reasonable care to investigate the proper