conjunction with others descriptive of various kinds of instrumentalities, see sec. 4 (a), ante.

(c) Defects of the condition of the machinery.—The cases cited below indicate sufficiently the kind of abnormal conditions which may properly be found by a jury to fall within this description (*c*).

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of the cooling vat rising sixteen inches above the passage. Underneath the barley vat was a board which the plaintiff had occasion to use. To draw it out he had to give it a jerk, and it came away so suddenly that he fell back into the cooling vat. In the Divisional Court, Wills, J., said that he could see no evidence of any defect. But in the Court of Appeal it was considered that the finding of the trial judge, sitting as a jury, that there was a defect in the condition of the works must be allowed to stand, as there was some evidence to support his conclusion. (See pp. 687 and 703 of the report.) A roof which proved too weak to support the snow which was allowed to accumulate on it seems to be treated in a Massachusetts case as a defect in the "works," but the point actually decided was merely that an allegation of defective conditions was sustained by proof that the weight of snow was one of the causes of the fall. *Dolan* v. *Alley* (1891) 153 Mass. 380.

(*c*) Defective pressure, causing a hydraulic crane to work erratically. *Bacon* v. *Daxes* (Q.B.D. 1887) 3 Times L.R. 557. A band which is constantly slipping off a shaft, thus creating a necessity for a frequent readjustment. *Baxter* v. *Wyman* (Q.B.D. 1888) 4 Times L.R. 255. A belt which is liable to slip off of a pulley. *Ellis* v. *Pierce* (1898) 172 Mass. 220, 51 N.E. 974. Defective appliances for controlling the speed of a push car, which collided with the plaintiff, knocking him down a high trestle, stated a cause of action. *Central of Georgia Ry. Co.* v. *Lamb*, 26 So. 969. A part of a machine in a paper mill so constructed that the rags, etc., which are fed to it are apt to catch, the result being a frequently recurring necessity to remove them. *Paley* v. *Garnett* (1885) 16 Q.B.D. 52. The absence of a guard to a circular saw provided by the owner of a saw mill, but improperly removed by the sawyer for his own purposes. *Tate* v. *Latham* (C.A.) (1897) 1 Q.B. 502. The want of a fence to protect employés from moving machinery. *Wallace* v. *Culter &c. Co* (1892) 19 Sc. Sess. Cas. (4th Ser.) 915. [Denying that this result was affected by the fact that the danger was a palpable one.] A loom in which either the shuttles are neither so fixed as not to be constantly flying out, nor protected by proper guards. *Smith* v. *Harrison* (Q.B.D. 1889) 5 Times L.R. 406. Unguarded machinery, which is operated by children. *Morgan* v. *Hutchins* (C.A. 1890) 59 L.J.Q.B. 197; *Gemmells* v. *Gouroch &c. Co.* (1861) 23 Sc. Sess. Cas. (2nd Ser.) 425. [Here unboxed cog-wheels were maintained in such a position that girls of twelve or thirteen years of age were required, in the course of their duties, to place their hands and dress within some eight or ten inches of the wheels when in motion.] Unfenced machinery in a jurisdiction where a penalty is imposed by a Factories Act for not having machinery guarded may properly be found to import negligence See sec. 6, ante. In the most recent case in which this doctrine was applied it was held that the absence of a guard is a defect, if the machinery is thereby rendered dangerous to the workmen using it, even if the machinery is in itself well constructed and suitable for the purpose for which it was designed. *Godwin* v. *Newcombe* (1901) 1 Ont. L.R. (C.A.) 525. Evidence that an injury received by a weaver in a cotton mill while he was assisting an inexperienced hand in consequence of the shuttle flying out of the loom was caused by a bolt breaking when the shuttle came in contact with it, is fit to go to the jury upon the question of negligence. *Canadian Colored Cotton Mills* v. *Talbot* (1897) 27 Can. S.C. 198. At the trial of an action against a railroad corporation for the death of an employé caused by the falling upon him of a locomotive, which had been placed on a truck in the repair shop, it is competent for the jury to find that, although the iron was sound where the wheel of the truck broke, yet, by reason of its long use and the