such information that will eliminate further cause for complaint. Saturday morning and this morning the unsatisfactory operation cost us anywhere from $100 to $500. You can quite understand that such a condition of affairs is intolerable, and must be stopped at once." . . .

The contentions of the defence were: (1) that what the deceased was doing was not his work, as he had a helper specially employed to clear away ice, and had the right to call upon others near-by for that purpose; (2) that he knew of and voluntarily incurred the risk, and that the defendants had provided ropes, the use of which would have prevented the fatal result of a fall into the river; (3) that he was in a specially dangerous place at the moment of the accident, which he need not have occupied; (4) that the clearing away of the ice could have been done by getting down into the sluiceway and working from there, instead of on the top of the ice. . . .

I do not think that a foreman in charge of such a station, responsible for its efficient operation, is travelling outside his duty if he does or assists in doing work which those under him may be employed to do, if it is work necessary and proper to be done. . . . My conclusion from the evidence . . . is, that there was such an amount of ice there that . . . it was necessary to clear it away. . . . It was work that was urgent and that required speedy action. And, apart from the question whether the deceased was justified in doing it just as he did, I think it was natural and proper for him to have taken steps at that time to clear the apron. . . . I do not think that the right to call for others, if proven to be known to the deceased, could in itself absolutely debar him as operator in charge from doing or assisting in doing necessary work at the moment, if, in his judgment, he could do it without calling them in.

What the deceased did was done entirely for the benefit of the defendants, under the pressure of their written complaint, and was undoubtedly necessary, when undertaken, for the proper operation of the works under his charge, on the successful working of which the defendants' principal works depended. . .

It cannot be said that in this case, upon the evidence, the deceased's employment did not "directly or indirectly oblige him to encounter" the peril (as put by Lord Atkinson in Barnes v. Nunnery Colliery Co., [1912] A.C. at p. 50); nor that the thing he did was different in kind from anything he was required or expected to do (per Lord Loreburn, L.C., in the same case, at p. 47.) . . .

[Reference to Whitehead v. Reader, [1901] 2 K.B. at p. 51; Rees v. Thomas, [1899] 1 Q.B. 1015.]