(*c*) "*Works.*"—See also sec. 5 (b) and (c), post. In one well-known case this word seems to be regarded as connotative of the same idea as "system" (*ee*).

(*d*) "*Machinery.*"—The term "machine" has been defined as "every mechanical device or combination of mechanical powers and devices to perform some function, and produce a certain effect or result" (*f*). Nor does this word include a steel bar used to align the track on a railway bridge (*g*). Apparently the action might have been maintained in both these cases if the pleader had alleged defects in the "plant."

For specific examples of appliances viewed as "machinery," the point actually involved being whether there was a "defect," see sec. 7 (b), post.

(*e*) "*Plant.*"—(See also under sec. 5, post.) This term includes "whatever apparatus is used by a business man for carrying on his business—not his stock in trade which he buys or makes for sale—but all goods and chattels fixed or movable, live or dead, which he keeps for permanent employment in his business" (*h*). For examples of defective instrumentalities assumed to come within this definition, see sec. 7 (a), post.

(*ee*) *Smith* v. *Baker* [1891] A.C. 325. There Lord Watson, in commenting on the finding of the jury that the manner in which the apparatus in question was used betokened negligence, first referred to the method adopted as being a "defective system," (p. 353), and in a later passage of his opinion (p. 354), remarked that the evidence brought the case within the operation of the rule, that a dangerous arrangement of machinery and tackle constitutes a "defect" in the condition of the works.

(*f*) *Coming* v. *Burden* (1853) 15 How. U.S. 267. [Patent case]. Such a definition obviously excludes such an appliance as a hammer, disconnected from other mechanical appliances and operated only by muscular strength. *Georgia Pac R. Co.* v. *Brooks* (1887) 84 Ala. 138, 4 So. 289. [Scale flying from an iron rail when struck by a hammer wielded by a fellow-servant injured]. It would seem that, if the rail was in such a condition as to render such an accident probable, the defendant should have been held liable as for a defect in the "plant" or in the "works."

(*g*) *Clements* v. *Alabama &c. R. Co.* (Ala. 1900) 8 So. 643. The reason assigned was that the bar was "disconnected from any other mechanical appliances, and operated by muscular strength directly applied."

(*h*) *Yarmouth* v. *France* (1887) 19 Q.B.D. 647, per Lindley, L.J., who thus disposed of the contention that a horse was not a part of the "plant":—"It is suggested that nothing that is animate can be plant; that is, that living creatures can in no sense be considered plant. Why not? In many businesses horses and carts, wagons, or drays, seem to me to form the most material part of the plant; they are the materials or instruments which the employer must use for the purpose of carrying on his business, and without which he could not carry it on at all. The principal part of the business of a wharfinger is conveying goods from the wharf to the houses or shops or warehouses of the consignees; and for this purpose he must use horses and carts or wagons. They are all necessary for the carrying on of the business. It cannot for a moment be contended that