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## STATUTORY LIABILITY OF EMPLOYERS FOR DEFECTS IN THE CONDITION OF THEIR PLANT.

(Continued.)

7. Specific examples of "defects."—(a) *Defects in the condition of the ways.*—This phrase embraces only those inherent imperfections which render the ways themselves less fit for the use for which they are intended (a). See sec. 6, ante. That the master is not liable for casual obstructions arising from the use of his ways, see sec. 8, post.

(b) *Defects in the condition of the works.*—Very few decisions specifically referable to this rather vague term are found in the reports except the cases discussed in sec. 5 (b), ante, in which the liability of masters for the condition of the premises of another person upon which they have contracted to do something is in question (b). See also the remark of Lord Watson, quoted in the last section. For some cases in which the term occurs in

(a) Plaintiff's servants injured by the following defects have been held entitled to go to the jury: A loose plank extending over a hole at a place which the servant has to pass, and so laid as to trip up when he steps on it. *Bromley v. Cavendish, &c. Co.* (C.A. 1886) 2 Times L.R. 881. The unsafe adjustment of a plank in a temporary staging across which materials are to be carried. *Giles v. Thames, &c., Co.* (Q.B.D. 1885) 1 Times L.R. 469. A plank 8 in. wide and 30 ft. from the ground furnished as a means for a servant to reach and repair a defective steam pipe. *United States Rolling-Stock Co. v. Weir* (1892) 96 Ala. 396, 11 So. 436. [Complaint averring insufficiency, not demurrable.] A plank of insufficient strength to sustain the weight of the men who have to walk along it. *Caldwell v. Mills* (1893) 24 Ont. R. 462. A defective track on a railway. *Coughlan v. Cambridge* (1896) 166 Mass. 268. An open ditch across the track along which the plaintiff had to pull a car. *Gustafson v. Washburn, &c. Co.* (1891) 153 Mass. 468. An unprotected aperture in a staircase which the workman has to use in the course of his employment. *Wood v. Dorrall* (Q.B.D.) (1886) 2 Times L.R. 550. The narrowing of the space between the wall of a passageway in a mine and cars passing therein, so as to cause the cars to pass dangerously near to the wall. *McNamara v. Logan* (1893) (Ala.) 14 So. 175. The roof of an adit in a mine so defectively timbered as to allow a large stone to fall on a miner. *McMullen v. Newhouse Coal Co.* (1896) 23 Sc. Sess. Cas. (4th Ser.) 759. A rock on the roof in tunnel which is so loose that it may fall at any moment. *Tutwiler &c. I. Co. v. Ensley* (Ala. 1901) 30 So. 600. The master's liability is a question for the jury where the evidence is conflicting as to whether a gudgeon pin used to fasten the arms of a derrick to a mast was large enough for safety. *Richmond &c. R. Co. v. Weems* (1892) 97 Ala. 270.

(b) *Thomas v. Quartermaine* (1887) 17 Q.B.D. 417, 18 Q.B.D. (C.A.) 685, a boiling vat and a cooling vat were placed in the same room in the defendant's brewery. A passage only three feet wide in one part ran between them, the rim