

and a trestle with which he was provided for doing his work, had improperly used loose planks that were lying on the cross-pieces, but were not intended to be used as a scaffold.

There was, in my opinion, ample evidence to warrant a finding that this structure was a scaffold and was intended to be used as such by the respondent in doing the work upon which he was engaged. . . .

There was evidence to support the answers of the jury to the questions submitted to them; and there is, in my opinion, no ground for disturbing their findings.

It was, however, contended that there is no absolute duty imposed on an employer by the statute on which the respondent relies; and that the respondent's action, therefore, fails; and, in support of that contention, counsel relied on *Britannic Merthyr Coal Co. v. David*, [1910] A.C. 74, and *Buller v. Fife Coal Co.*, [1912] A.C. 149.

The later case of *Watkins v. Naval Colliery Co.*, [1912] A.C. 699, removes out of the way of the respondent any difficulty that might otherwise have existed—I do not say did exist—owing to expressions used by some of the Law Lords in the earlier cases.

The principle of the *Watkins* case is, in my opinion, clearly applicable to the case at bar. Section 6 creates an absolute duty on persons employed in the erection, alteration, repair, improvement, or demolition of a building, not to use scaffolding . . . or other mechanical and temporary contrivances which are unsafe, unsuitable, or improper, or which are not so constructed, protected, placed, and operated as to afford reasonable safety from accident to persons employed or engaged upon the building.

That this is a provision for the benefit of the workman is clear, and entitles him, if he suffers special damage from the contravention of it, to recover the damages which he has sustained: p. 702.

The appeal fails, and must be dismissed with costs.