The negligence complained of was in not properly supporting the car while the work underneath was in progress. The action was based both upon the common law, and the Workmen's Compensation for Injuries Act.

The questions submitted to the jury, and their answers were:—

1. Were the defendants guilty of negligence that caused the accident? A. Yes.

2. If so, what was the negligence? A. By the foreman not using proper precaution by not placing 3-inch by 12-inch and 3 feet long planks as a foundation for the trestles.

3. Was the death of William George Lappage caused through the negligence of the defendants by reason of defects in the condition and arrangement of the works and plant used in the business of the defendants? A. Yes.

4. If so, what was the defect? A. Improper foundation by using a narrow board in place of a heavy plank.

5. Was the system of trestles used by the defendants to support the car defective? A. Yes.

6. If so, in what respect? A. Not sufficient supports used to properly carry such a heavy weight, we considering that, if it is absolutely necessary to lift car at both ends at once, that jacks and trestles both should be used at the same time in case of re-action of the jacks.

7. Under whose instruction did deceased act on the occasion in question? A. Kelly and Warren.

8. Whose duty was it to see that the car was sufficiently supported? A. The foreman, Mr. Warren.

9. At what sum do you assess the damages (1) at common law? A. $4,000. (2) Under the Workmen's Act? A. $2,000. We would advise that $2,000 be given to the widow and $2,000 to the child, making a total of $4,000."

His Lordship: "You mean whether $4,000 or $3,000, it will be divided between the mother and the child?"

The Foreman: "Yes, sir."

There was, it was not disputed before us, evidence of negligence proper for the jury, the question really being, should the recovery be as at common law or under the statute? And that, upon the evidence and the findings, it should be under the latter is, in my opinion, clearly the correct view.