

out examining them, so as to see that they were turpentine casks. Can anybody say that, in the ordinary course of any business, casks which are to be sent empty for the purpose of being filled with something, would not be examined at all so as to discover whether there was in those casks such a thing as the dregs of turpentine? It seems to me impossible to affirm that, and, unless you can affirm that, you do not show that, if the defendants had thought of the duty which is alleged against them, they must have seen that if they acted negligently there must be injury to the plaintiff's property. The case, therefore, although I do not say it is far from the line, is wanting in an allegation of fact to my mind to bring it within the line."

*Batchelor v. Fortescue*, 49 L. T., N. S., 442.

*Negligence—Bare Licensee.*

K. was the owner of a plot of land, on part of which warehouses had been erected, while on the residue excavations were being carried out by F., who had contracted with K. for that purpose. B., who was employed by K. to watch K.'s materials and buildings, was standing under an iron tub in which earth was being raised by F.'s men, when the chain holding the tub broke, and the tub fell on him, thereby causing his death. It was not necessary for B. to stand under the tub to watch the buildings and materials. In an action against F. to recover damages under Lord Campbell's Act (9 and 10 Vic., c. 93):

*Held*, that B. was a bare licensee upon the spot where he was standing, and that therefore he stood there subject to all the risks of being there, there being no obligation on F. to take due and reasonable care of him.

This case was likened to *Ivay v. Hedges*, L. R. 9, Q. B. Div. 80. In that case the plaintiff, a tenant of apartments, had a licence from his landlord to use, if he liked, a certain leaden roof to dry his clothes on. There was a defect in a rail which was situate upon this roof and which was known to the landlord. The plaintiff went upon the roof for the purpose of removing some linen which was there, when his foot slipped, and, the rail being out of repair, he fell through