The defendant company contracted with the Harry Webb Company to install the refrigerating plant aforesaid. By the contract the property in the plant was not to pass to the purchasers until paid for. At the time of the accident, the plant had been installed and was in operation, but had not proved satisfactory, owing to the fact that it did not give sufficient refrigeration. For this reason, the Webb company had declined to accept it; and some modifications were being made in the refrigerating pipes, to remove the objections raised.

The condenser was not manufactured by the defendant company, but purchased by them from the York Manufacturing Company, of York, Pennsylvania. It constituted but one link in the entire outfit, being supplied by the defendants to the Webb company. It was constructed and assembled by the York company, and was shipped by them in a condition in which it was supposed to be ready for erection and operation. Before leaving the factory, it was tested, and found to be perfect and in running order. It was shipped direct from the factory to the Webb company's premises at Toronto, and was there placed in position and connected with the operating dynamo and the pipes constituting the refrigerating plant and condenser system.

At the trial some endeavour was made to shew that the machine was defective in design, owing to the absence of a proper flange to protect the packing constituting the gasket, at the joint between the cylinder and cylinder-head. This contention was entirely displaced by the production of the parts in question, which shewed them to be properly constructed.

To understand the evidence, it is necessary to know in a general way how the plant operated. Essentially it consists of a closed circuit containing ammonia. The ammonia vapour is compressed by the compresser to a pressure of about two hundred pounds; and the effect of this compression is to raise the temperature very considerably. The compressed vapour is then artificially cooled, by bringing the pipes containing it in contact with water. The cool vapour is conducted to the refrigerating pipes and permitted to escape into them, practically at atmospheric pressure. As in the expansion the temperature is reduced precisely to the same extent that it was raised in the compression, and as the starting point of this reduction has been lowered by the cooling of the vapour, a very low temperature is thus produced, which brings about the refrigeration. The ammonia vapour thus expanded is returned again to the compresser, to be started once more through the system.

On the morning in question, the plaintiff was about to put