pool, London & Globe Ins. Co.[1] it was held that change "of (or in) occupation," is different from "change in the nature of the occupation." But it was held by the Court if the condition is directed against change of occupant, it must be enforced. The person in actual occupation may be material, and may have led to the policy.

But if the condition be against change in the nature of occupation by which the degree of risk is increased, without notice, etc., *semble* both must concur, else the policy is not nullified.[2]

By the Liverpool & London Insurance Co's policy, condition 2, change in nature of the occupation is provided for. *Semble* change of occupant is different from "nature of the occupation," and the risk must be increased according to the condition of the above company to vitiate the insurance.

Alterations complained of should be averred to have increased the risk; otherwise as was said in *Stokes* v. *Cox*,[3] if a house used for making fireworks were converted into an icehouse, the policy would be vitiated. So a plea is bad for not stating increase of risk.[4]

There must be occupation of the insured premises, or the policy is held to be of no force.[5]

§ 170. *Increase of risk by more hazardous trade.*

While the risk is running, no alteration ought to be made by the insured enhancing the liability of the insurer. A butcher's shop cannot be changed into a fireworks shop with impunity; though no special condition of the policy prohibit it. Per Lord Campbell in *Sillem* v. *Thornton*.

In 8 Howard, 235, insurance was on a cotton factory. The insured represented in writing that there was "a picker inside the building, but no lamps used in the picking room." Fire took place originating in the picking room in which lamps were being used. A verdict for return of four years, premium was set aside upon a technicality, but the Court evidently was of opinion that the insurance company was free.

May manufacturing of barrels be incidental to business of flour milling; or tobacco pressing building insured described as used for "tobacco pressing, no manufacturing." The insured recovered, but the judgment was reversed.[1]

Introduction of lamps is an aggravation of risk, and *semble* though no warranty were given, the policy ought to be, so, avoided.

Where a policy contained a clause prohibiting the use of a building for storing therein goods denominated in the memorandum annexed to the policy as hazardous, the keeping of such goods as oil and spirituous liquors by a grocer in ordinary quantity for his ordinary retail was held not to be, under the circumstances, a storing of them avoiding the policy.[2] I cannot but think that that decision was equitable and proper. Store implies accumulated quantity, provision laid up for the future purposes.

A condition avoiding the policy in case the building insured shall be used for the purpose of carrying on any one of certain specified hazardous trades, or any such trade generally, is not broken by exercising any such business in the building, provided it be auxiliary to, and necessary for, the business recognized in the policy as carried on therein. Thus, where a building was insured as a manufactory of hat bodies, and privilege was given in the policy for all the process of said business, it was held that the policy was not avoided by the existence of a carpenter's shop in the building, which

[1] 28 U. Ca. Q. B. R.

[2] *Ottawa & Rideau Forwarding Co.* v. *Liverpool, London & Globe Ins. Co.* 28 U. C. Q. B. Rep.

[3] 1 H. & W.

[4] *Johnston* v. *Ca. Farmers M. F. I. Co.* Com. Pl. Rep. Ontario, Vol. 28, referring to *Gould* v. *B. Am. Ass. Co.* 27 U. Ca. R.

[5] "If building become vacant or unoccupied and so remain without notice to insurer and his consent in writing, policy is void." The tenant moved out and the house was vacated and unoccupied for 17 days, when it was destroyed by fire. Held that the policy was avoided. *Denison* v. *Phœnix In. Co.* Iowa, Sup. Ct. citing Newton (*ut supra*) *Harrison* v. *City F. In. Co.*, 9 Allen (Mass), and other cases. For what is *not* such occupation, see *Poor* v. *Humbolt Ins. Co.*, a Massachusetts case in 28 Amer. Rep. There are conditions against vacancy. Must all kinds of buildings be never vacant—Schoolhouses for instance, at night, or in vacation time? See Albany Law Journal, A D. 1880, p. 164.

[1] *Simes* v. *State Ins. Co. of Hannibal*, 4 Am. Rep. (*semble*; no manufacturing might well be held *warranted*, in favor of insurance company.)

[2] 1 Hall, 226.