

A Canadian court, taking an enlightened and humane view of the subject, has dealt with it in the manner indicated by the abstract of its decision in the marginal note.† It should be kept in mind that the conclusion may be different where there is a statute requiring the building to be equipped with fire escapes and where the statute is violated by the proprietor of the building, whereby his servants are burned to death or injured. In such a case, to hold that the servants accept the risk of the statutory negligence of the master would be, in effect, to repeal the statute. Such, it has been held by an enlightened court, is not the law.* Even here a judicial tendency has been discovered to fritter away the protection of such a statute. Where such a state required 'factories' to be equipped with fire escapes, it was held that the existence of a chemical laboratory, the entire output of which was less than twenty per cent. of the business, which was that of a wholesale drug company, did not constitute the place a 'factory' within the meaning of the statute.† But it is suggested that statutes which are designed to conserve human life ought to be liberally construed, in the application of civil remedies, so as to promote the end intended. A building which is in part devoted to the manufacture of chemicals, and which, owing to the nature of the business, is more liable to take fire than if it were some other kind of 'factory,' is within the very policy and mischief of such a statute, and none the less so because the larger part of the building may be devoted to the storage and sale of such chemicals."

‡ A foreman on the top floor of a factory, who, knowing that a fire had commenced in one of the lower stories, directed the employees in his story to return to their work, assuring them that there was no danger, when they would easily have escaped if they had not been thus prevented, was guilty of such negligence, even though he acted in good faith, and in the belief that there was no danger, as will render the employer liable for the death of one of the employees who, when the fire subsequently reached such story, cast herself out of the window under the belief that she could not otherwise be saved, although she could readily have escaped by the stairway: *Macdonald v. Thibaudeau*, 8 Rep. Jud. Que. B. R. 449 (opinion and syllabus in French). Compare with this case *Hernischel v. Texas Drug Co.*, 26 Tex. Civ. App. 1 s. c. 61 S. W. Rep. 419 (where, on a somewhat similar state of facts, there being no contention that the fire was caused by the negligence of the defendant or that it could have been extinguished, it was held not error to direct a verdict for the defendant.)

* *Landgraf v. Kuh*, 188 Ill. 484; s. c. 59 N.E. Rep. 501.

† *Hernischel v. Texas Drug Co.*, 26 Tex. Civ. App. 1; s. c., 61 S. W. Rep. 419.