

The defendants are manufacturers of clothes-wringers, parts of which consist of rubber rollers, each on an iron rod or shaft. They required a cement which would so unite the rubber to the iron rod which formed its axis, that the two would revolve together, and would not separate under such pressure as the defendants' experience led them to put on to test the fitness of the roller for actual use. As a matter of prudence, and in order to give a margin of safety, that pressure was, as might be expected, considerably greater than would ordinarily be given by a person using the wringer, or, as the witness put it, by a washerwoman. The defendants were using a cement which they purchased ready-made from another concern. The plaintiffs manufactured various cements, and, desirous of doing business with the defendants, solicited an order, and their salesman procured from the defendants a sample of the cement which they were using, in order that the plaintiffs might make up one like it or equally effective.

Cements are made up of crude rubber and various chemicals. Neither plaintiffs nor defendants knew the exact composition of this particular cement. The plaintiffs' manager, Mr. Thornton, on receipt of the sample, analysed it, and arrived, as he concluded, at its ingredients, and compounded a small quantity of cement which he considered the same or equally effective, and sent it on as a sample to the defendants to be tested. He admits that he could not make a perfect analysis, and could not say that it was exactly the same, inasmuch as the chief constituent, rubber, varies greatly. The cement must not only cohere with the iron wringer, but must vulcanise or harden uniformly with the outer roll of rubber so as to unite with it. This vulcanising is also spoken of as "curing." There are many varieties of rubber, and a cement which will unite with one sort may not unite with another, the quantity of sulphur in the cement and the rubber being an important element, as that having the greater quantity of sulphur hardens first. It would be necessary, therefore, for the plaintiffs to know whether the cement they had prepared would "vulcanise" or "cure" with the particular rubber which the defendants were using.

When sending the sample which he had compounded to the defendants, the plaintiffs' manager sent with it a letter to them of 3rd January, 1907, as follows: "We are sending