

Some three weeks after this—on the 6th February, 1912—the Rhodes Company assigned its lease, and the reversion in the sub-lease, to the Railway Equipment Company of Toronto, Limited. Notice of this assignment was not given to the plaintiffs until the 2nd November, 1912.

In the operation of the business carried on by the plaintiff company—the manufacture of “waste” from the refuse from cotton mills—the crude material received from the mills is placed in a machine in which the fibres are torn apart and separated. There is a risk of some stone, nail, or other foreign matter getting into this machine, when by reason of its contact with the revolving steel parts a spark may result, and the separated cotton fibre, being of a highly inflammable nature, a fire may occur, which would be sudden and violent in its nature; consequently the operation of this machine is recognized as being highly dangerous from the fire standpoint. It was for this purpose that the plaintiffs obtained permission in the sub-lease to construct the fire-proof room. The nature of the business to be carried on was probably understood by the lessors at the time of this sub-lease; but, if so, both parties contemplated that a fire-proof room would be sufficient security.

At the time of the making of the sub-lease the head lease was not produced nor could it be found. No adequate search was made for it, no enquiry was even made from the lessors; so that the provision of the lease against the carrying on of any business which would increase the insurance rates was not known to the plaintiffs.

Shortly after the business was commenced, objection was taken by the insurance companies to the increased risk, and the insurance on the entire building and its contents was cancelled. The result was that the lessors, the Canada Malleable Range Company brought an action and finally obtained an injunction restraining the operation of the machines in question in the premises. This no doubt placed the plaintiffs in a very serious position. They had the lease; they had no other premises; premises of the kind necessary for business were not easily obtainable, and their business called for the immediate production and supply of material.

In the result they did what I think was prudent; they rented an adjacent lot and erected upon it a temporary fire-proof building, removed the dangerous machinery to it, and