

lever was, on a shift working 20 minutes and then idle for 10 minutes, and during the period in which he was idle he could rest near the boiler on the side of the building where the lever was, and where the workmen had placed boards as seats for the purpose of resting on during the period they were not employed. McVicar says he had difficulty with the plaintiff because of his going around the machines, and told him he would discharge him if he ever caught him going to the other part of the building where the machines were, and on one occasion he took him by the arm and set him down at the place which he ought to have occupied while he was off duty, and which was at the side of the mill where the lever was, and told him that if he ever caught him going to the other side he would discharge him. And he says that he caught him trying to cut off and on the coupler-facerbelt, and he said he took him by the arm and told him to go to the office and get his cheque, and he discharged him for, as I have already stated, 10 days.

That should have been a sufficient warning to him not to go near the machines.

Then Mr. Max Bahm, who was also a foreman at the defendants' mill during the day, said the plaintiff had no business in any other part of the works than where he was employed, to pull the lever, and he told him more than once that if he caught him interfering with the men or going near the machines on the other side, he would discharge him from the works altogether.

Although Max Bahm did not use the word, the inference to be drawn from what he said was that the plaintiff was incorrigible as regards disobeying orders; that, although he had been warned not to interfere with the machinery, he caught him one day putting his hand between the belt and the pulley of one of the machines and bringing his hand around and so continuing it, as if it was a source of amusement to him. He drove him from the belt, gave him extra warning, and said, "I drove him from the belt and told him if he did not stop his fooling he would get hurt."

The excuse offered by the plaintiff for going near this machine, at which Winters was at work, is that Winters motioned to him to come up to where he was at work. If he went there at Winters's instructions, it must have been conveyed by a motion, because, having regard to the great noise existing there (I speak from having visited the locus), it would be impossible for any man who was working on