

ing fire should be kept or maintained in the factory, and the assured undoubtedly had the right to remove them if it saw fit. In other words, there was no obligation on the part of the assured to keep this force-pump and hose in the factory for the purpose of protecting the property against fire. That the machinery was to stand still part of the time was undoubtedly in the contemplation of the parties at the time of the issue of this policy. The policy specially permits the stoppage for repairs and alterations; and it was always stopped over night and Sundays, when it would be in all respects as much exposed to fire as it was during the eight days that intervened between the time the machinery was stopped and the time of the fire. I am, therefore, clearly of opinion that there was no increase of risk by stopping manufacturing by the lessees, as the stoppage was only temporary, and for a purpose permitted by the policy. The mere fact that the then price of cotton furnished another motive for stopping at that time does not defeat this right to stop and still retain the policy in force.

As to the second defense, that the premises were allowed to become vacant and unoccupied, I do not think that in any sense this clause can be said to have been violated by the plaintiff. The premises were in charge of the usual superintendent of the company; the night and day watchmen were on duty all the time the machinery lay still; employes were at the factory and about it all the time from the eighth day of July, when the work was suspended, until the building was burned; and in no sense does it seem to me that the premises can be said to have been vacant and unoccupied. It is true they were not as densely occupied by employes in the working hours of these eight days as they were during those hours when the factory was running; but still there were enough people about to retain possession, and keep watch against intrusion, and to give notice, if a fire should break out or other danger arise to the property involving the risks under the policy.

I am, therefore, of opinion that the defense is not sustained by the proof; and the issue is found for the plaintiff, with damages according to the adjustment, and interest from the time the loss became payable.

BRIGHTON MANUF'G Co. v. FIRE ASS'N OF PHILADELPHIA.

(Circuit Court, N. D. Illinois. July 25, 1887.)

1. INSURANCE—CONDITIONS—INCREASE OF RISK.

A policy of insurance contained a clause that if the risk was increased with the knowledge of insured, and without notice to the company, the policy should be void. A manufacturing company stopped work for a few days, cotton being high, and repaired its machinery meantime, whereby no use could be made of a steam-pump and hose connected with the engine, in case of fire. The policy permitted stoppage for repairs. *Held*, that there was no increase of risk by this temporary stoppage; following *Brighton Manuf'g Co. v. Reading Fire Ins. Co.*, ante, 232.

2. SAME—CONDITIONS—VACANT AND UNOCCUPIED PREMISES.

A policy of insurance provided that if the building insured became vacant and unoccupied without the knowledge and consent of the company the policy should be void. Defendant, a manufacturing company, temporarily stopped work, and repaired its machinery; the night and day watchmen were on duty and the employes were at and about the factory from its closing until it burned. *Held*, that the building was in no sense vacant and unoccupied; following *Brighton Manuf'g Co. v. Reading Fire Ins. Co.*, *ante*, 232.

3. SAME—CONDITIONS—CESSATION OF BUSINESS.

A manufacturing company which closes temporarily and repairs its machinery, and is burned down in eight days, cannot be said to have ceased operating so as to avoid a policy of insurance.

At Law. Suit to recover on policy of insurance.

The Brighton Manufacturing Company sued the Fire Association of Philadelphia, to recover for a loss by fire.

E. W. Russell, for plaintiff.

Gary, Cody & Gary and *Fred'k Ullman*, for defendant.

BLODGETT, J. This is a suit upon a policy by the defendant upon the same property as that covered by the policy in the preceding case; and the facts in the cases are essentially the same. The defenses set up are: (1) That the risk was increased by a change in the occupation of the building, with the knowledge of the assured; (2) that the building was allowed by the plaintiff to become vacant and unoccupied; (3) that, being a manufacturing establishment, it ceased to be operated.

I have sufficiently considered the first two objections in the former case; and will only say in regard to the third and last, that I do not think, under the facts in this case, the factory can be said not to have been operated during the time manufacturing was suspended for eight days preceding the fire; but, if I am wrong in my view as to the meaning and force of the term "ceased to be operated," the plaintiffs certainly had the right to stop temporarily for repairs. There will therefore be a finding for the plaintiff.

BRIGHTON MANUF'G CO. v. RELIANCE INS. CO.

(Circuit Court, N. D. Illinois. July 25, 1887.)

At Law. Suit to recover on a policy of insurance.

Action by the Brighton Manufacturing Company against the Reliance Insurance Company on a policy of insurance.

E. W. Russell, for plaintiff.

Gary, Cody & Gary and *Fred'k Ullman*, for defendant.

BLODGETT, J. The facts in this case are the same as in the preceding case; and the defenses set up that the risk was increased with the knowledge of the assured, of which no notice was given to the defendant; that the assured allowed the building to become vacant and unoccupied, without notice to the