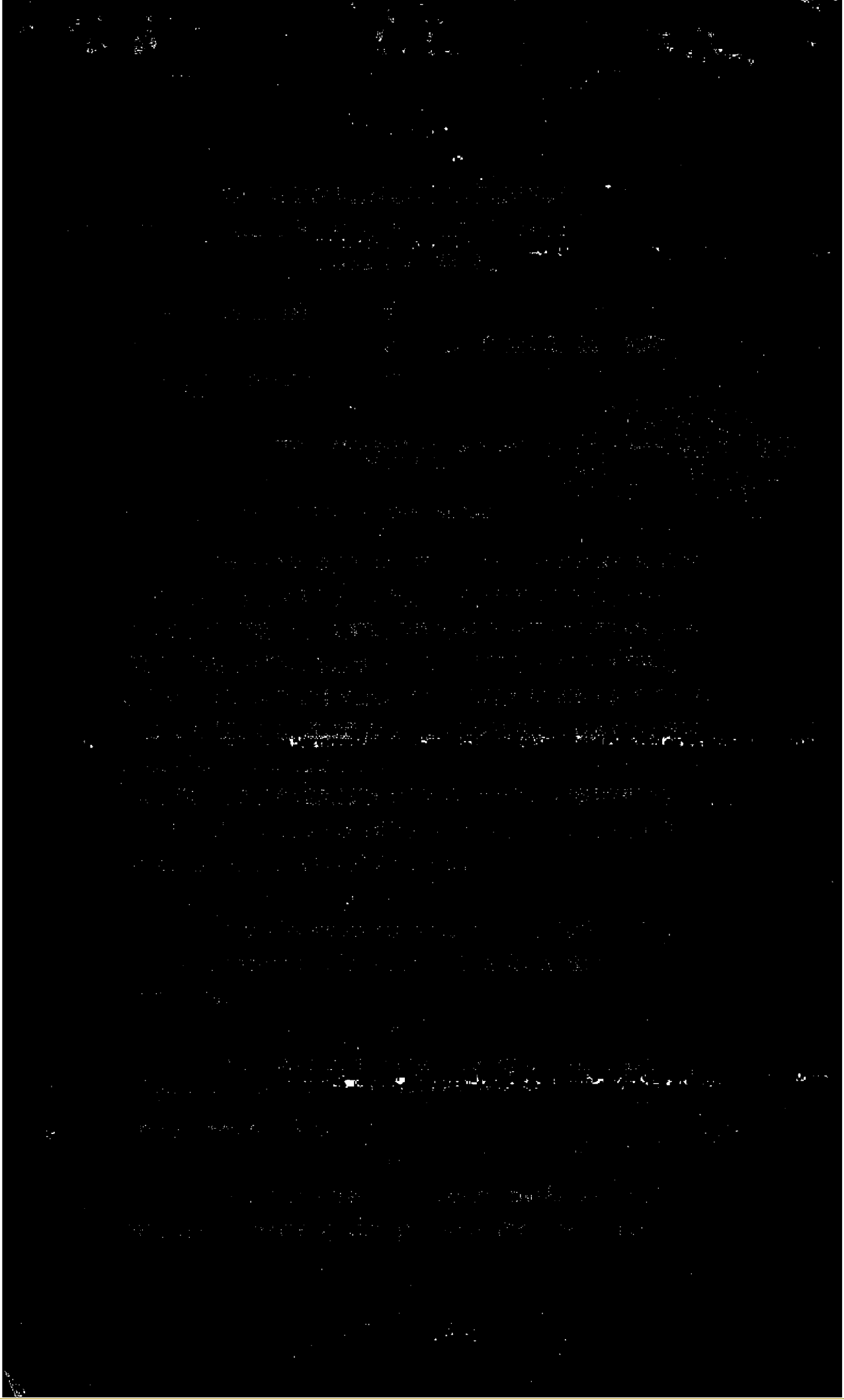


4.

That defendant COMBUSTION ENGINEERING, INC. is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

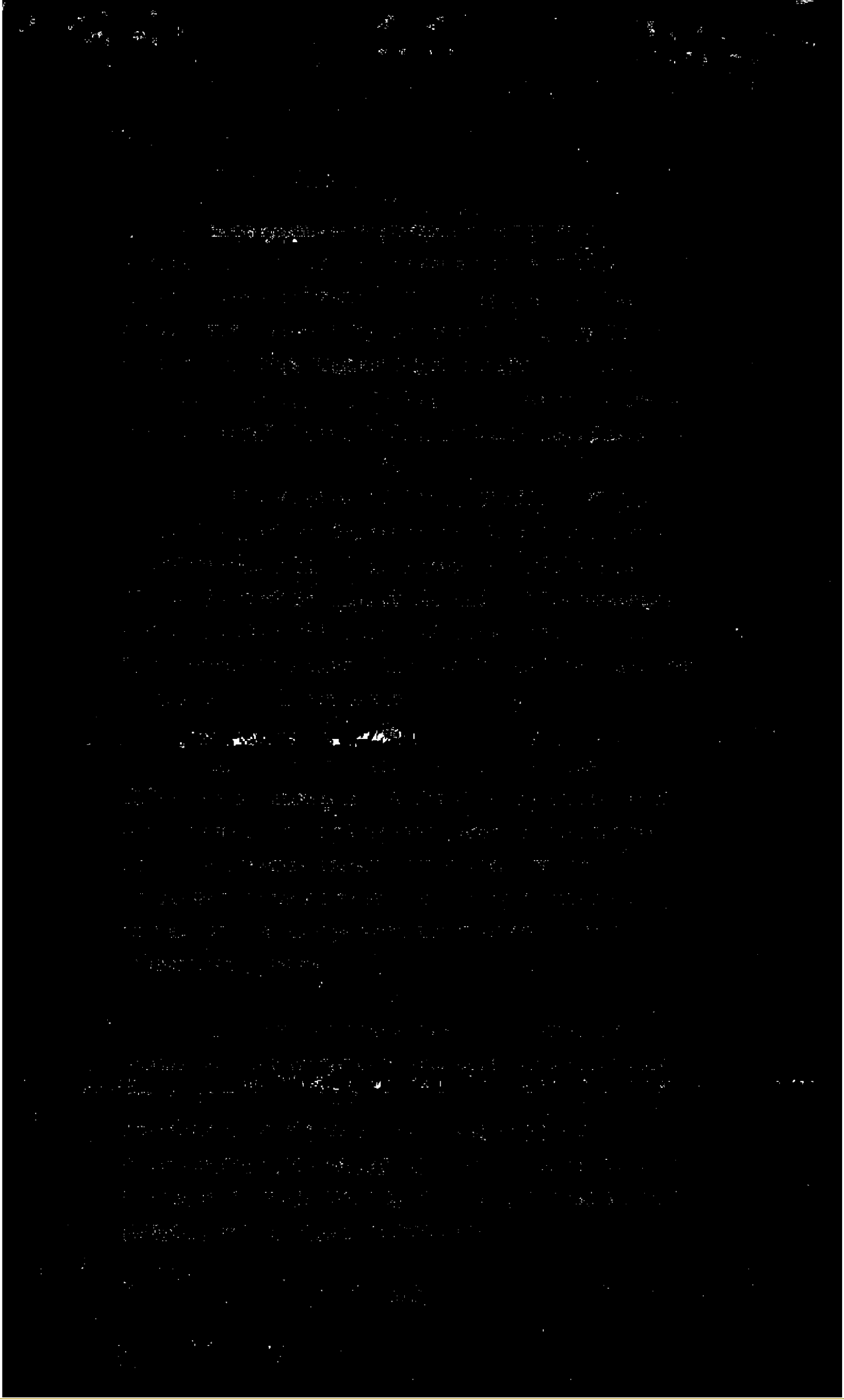
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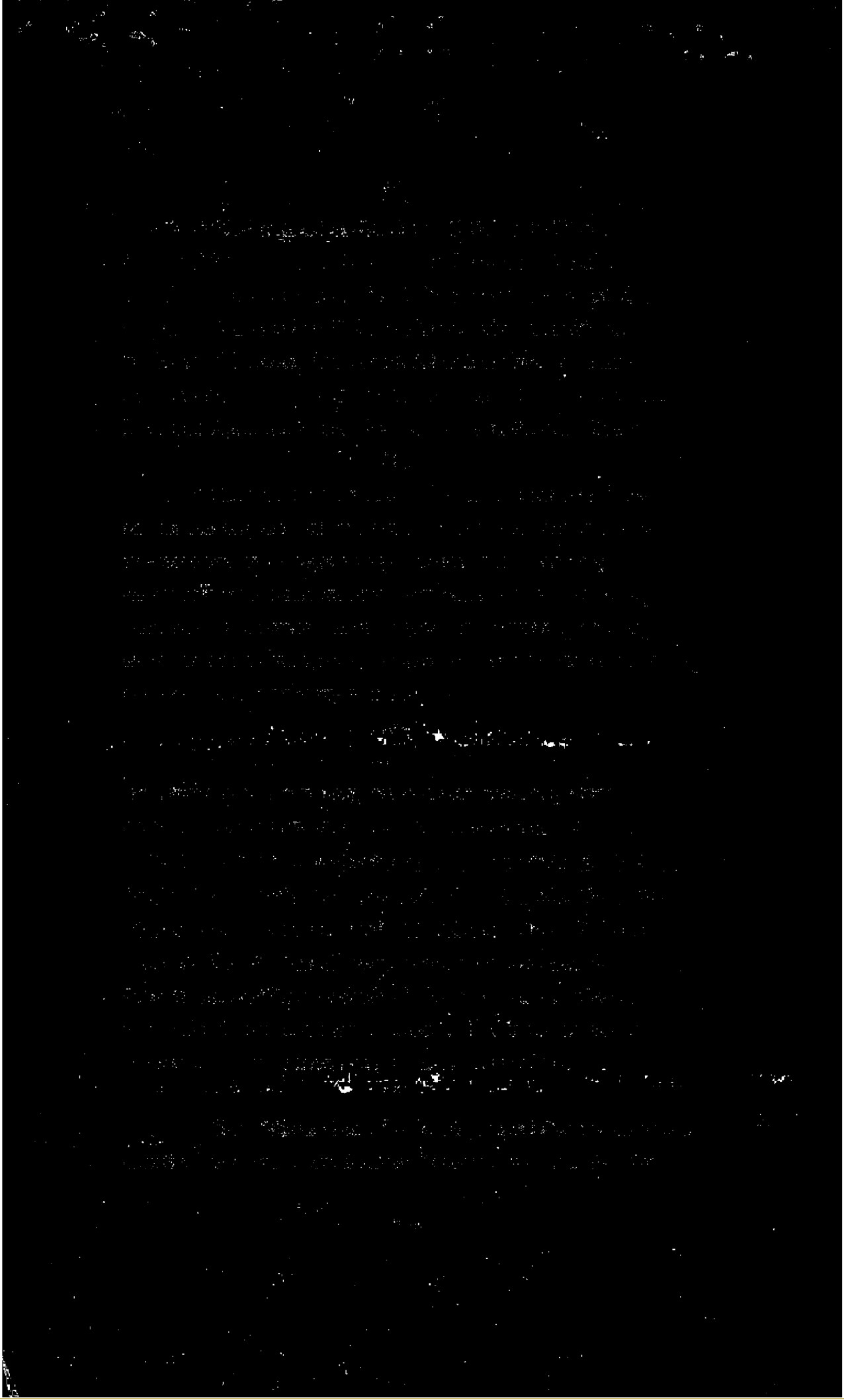
That defendant, R & I REFRACTOR AND INSULATION CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of some State, with an agent for service; however, at this time, plaintiff does not know the name and address of such agent for service.

6.

That defendants JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION AND JOHNS-MANVILLE FIBER GLASS, INC. were and during all of the times herein mentioned were corporations duly organized, created and existing under and by virtue of the laws of the State of Delaware; that all of such defendants have an agent for service, to-wit: Prentice-Hall Corporation System, Littlefield Building, Austin, Travis County, Texas. That plaintiff is suing all of these corporations and alleges that he is suing whichever one is responsible for the manufacture, production and distribution of the insulation materials hereinafter mentioned, but it is not known by plaintiff at this time which of said corporations is responsible.

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defendants contained chemicals and minerals and deleterious substances and matter which were highly poisonous, dangerous and harmful to human beings and to the health of man; that such materials were defective and were not suitable for the purposes for which they were intended. That each of the defendants knew, or should have known, that the chemical compounds and deleterious substances and matter in said insulation as compounded, prepared and manufactured by defendants were highly poisonous, dangerous and harmful to human beings and to the health of man and that such materials were defective and were not suitable for the purposes for which they were intended.

15.

The plaintiff says that in the year 1959, the exact dates being unknown, he was employed by B & B Engineering and Supply Company at the DuPont Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Foamglas, magnesium and fireproofing.

16.

The plaintiff says that in the year 1959, for approximately nine to ten months, he was employed by Brooks-Fisher Insulating Company at the Gallitan Power House in Gallitan, Tennessee, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Asbestos and magnesium.

17.

The plaintiff says that in the year 1960, for

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approximately two months, he was employed by The Fluor Corporation, Ltd. at Kaplan, Louisiana on the Cow Island Job, and that in the course of his employment as an insulator, he was required to come in contact with magnesium.

18.

The plaintiff says that in the year 1960, the exact dates being unknown, he was employed by B & B Engineering & Supply Company, Inc. at the DuPont Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with foamglas, magnesium and fireproofing.

19.

The plaintiff says that in the year 1960, the exact dates being unknown, he was employed by Armstrong Contracting and Supply Corporation at the Firestone Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with magnesium.

20.

The plaintiff says that in the year 1961, the exact dates being unknown but being for approximately nine months, he was employed by Armstrong Contracting and Supply Corporation at the Firestone Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with magnesium and Careytemp.

21.

The plaintiff says that in the year 1961, from September, 1961, to January, 1962, he was employed by The Aber Company, Inc., at the Gulf States Power House, in Bridge

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City, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed silicate); aluminum rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestos fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

22.

The plaintiff says that from March, 1962, to May, 1962, he was employed by The Aber Company, Inc., at the Gulf Oil Refinery, in Port Arthur, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed silicate); Aluminum rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestor fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

23.

The plaintiff says that during the year 1962, he worked for Sabine Insulation Company, Inc., at the Firestone Plant in Orange, Texas, and at Levingston Shipbuilding Company in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Calcium silicate, mineral wool insulating cement and aluminum jacketing.

24.

The plaintiff says that during the year 1962, he worked for Armstrong Contracting & Supply Corporation, the exact dates being unknown to him, at the Firestone Plant in

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Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with magnesium.

25.

The plaintiff says that during the year 1962, the exact dates being unknown to him, he worked for Johns-Manville Sales Corporation at the Bridge City Power House, in Bridge City, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed silicate); Aluminum Rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestos fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

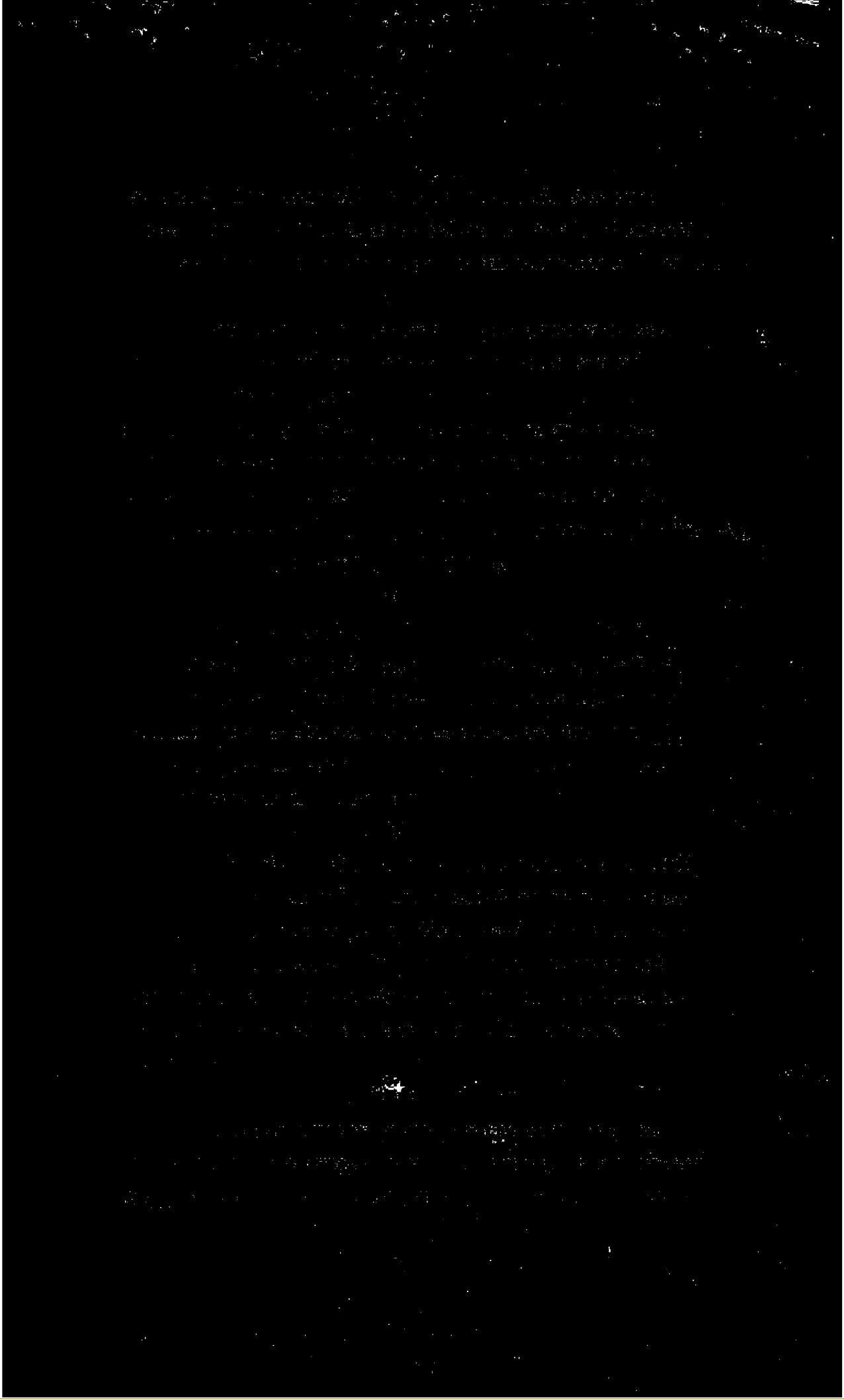
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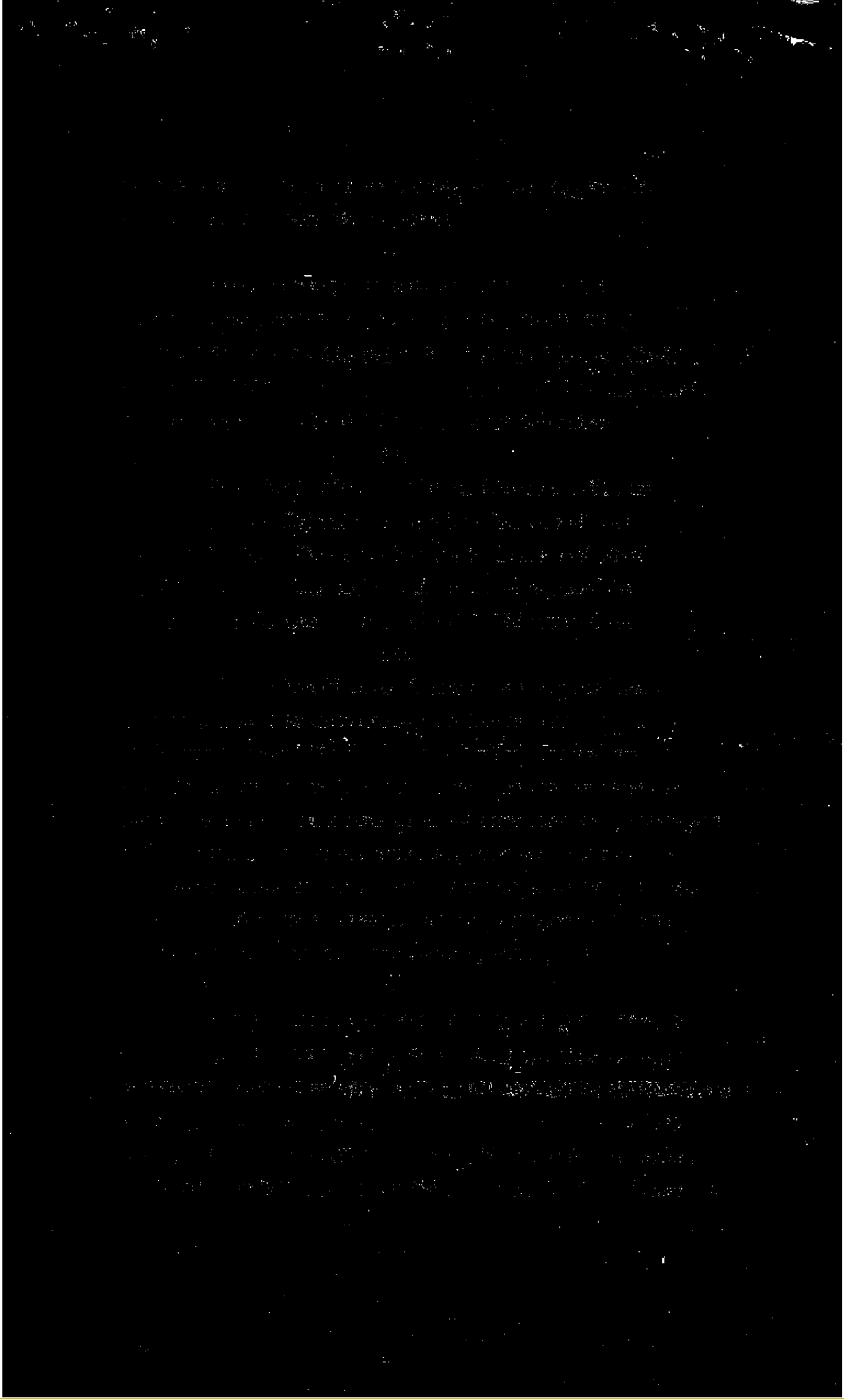
The plaintiff says that in the year 1962, from about June 11th to June 15th, 1962, he was employed by B & B Engineering & Supply Company, at the Big Three Welding Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Foamglas, Careytemp, Thermoglas and Rock wool.

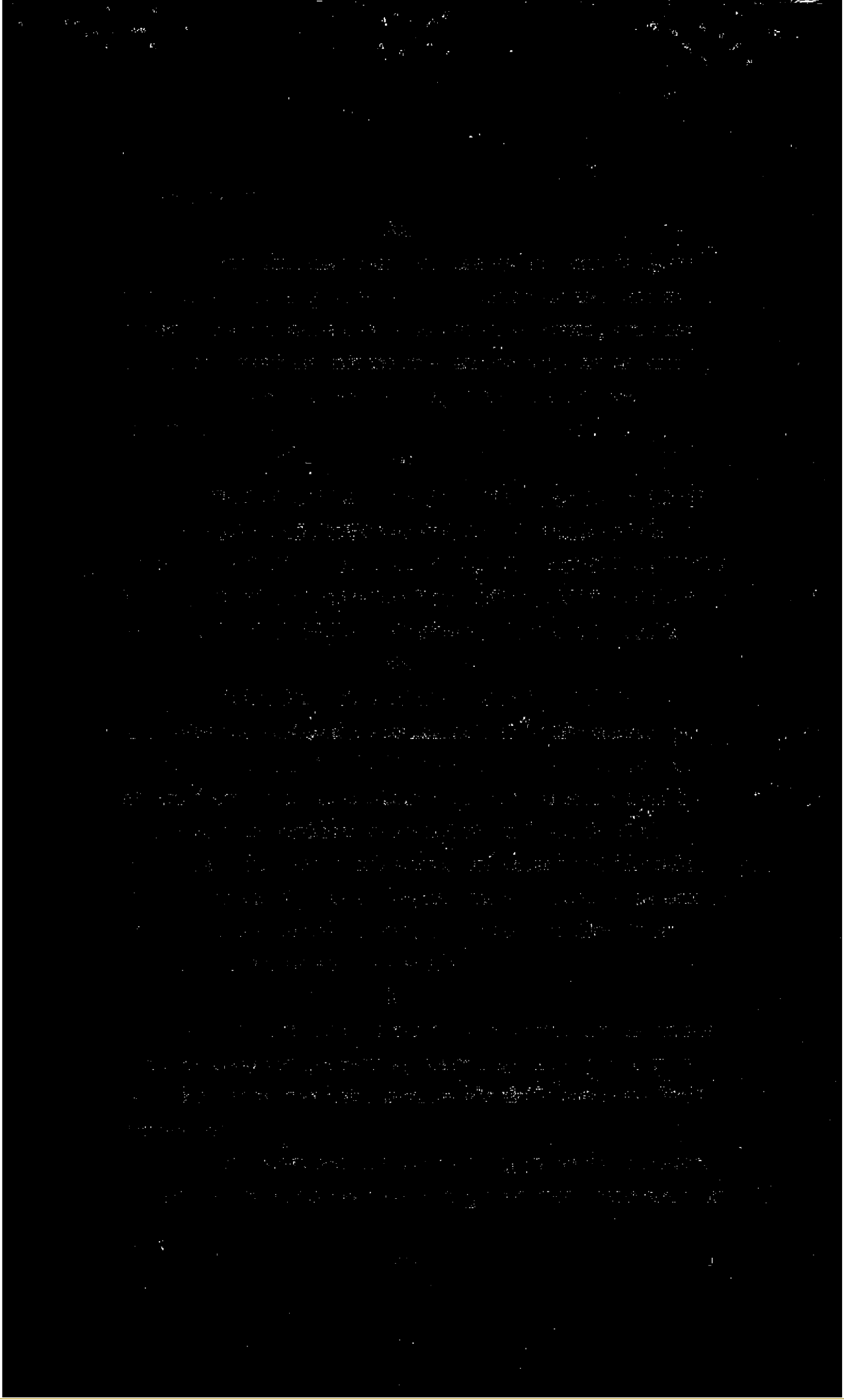
27.

The plaintiff says that from November 30, 1962, to January 18, 1963, he was employed by The Aber Company at the Gulf States Power House in Bridge City, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed

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insulation they so prepared and manufactured were deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, and that plaintiff would not know of such danger to his health, notwithstanding which defendants negligently failed to take any reasonable precautions or exercise reasonable care to warn plaintiff of the danger and harm to which he was exposed while handling the defendants' said insulation;

(b) That the defendants knew or, in the exercise of ordinary care, ought to have known that their said insulation was deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, and that the plaintiff would not know of such dangerous character, notwithstanding which defendants failed and omitted to provide plaintiff with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances to protect him from being poisoned and disabled as he was by exposure to such deleterious and harmful compound substances and other material contained in said defendants' insulation.

(c) That the defendant knew or, in the exercise of ordinary or reasonable care, ought to have known that their insulation was deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently and carelessly packaged said insulation so that in the ordinary handling for installation thereof, this plaintiff would come in contact with such deleterious, poisonous and highly harmful compound substances and other material contained in said defendants' insulation.

(d) That the defendants knew or, in the exercise

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of ordinary or reasonable care, ought to have known that the insulation they produced contained deleterious, poisonous and highly harmful substances to human body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently failed to take any reasonable precautions or exercise reasonable care by placing any warnings on their containers of said insulation to warn the handlers thereof of the dangers to health in coming in contact with said insulation.

(e) That the defendants knew or, in the exercise of ordinary or reasonable care, ought to have known that its insulation contained deleterious, poisonous and highly harmful substances to the human body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently supplied to plaintiff containers of said insulation which were broken open and could not be transported without coming in contact with plaintiff's skin and body.

(f) That the defendants knew or, in the exercise of reasonable care, ought to have known that their insulation contained deleterious and highly harmful substances to plaintiff's health, body, lungs, respiratory system, and skin, and defendants knew or, in the exercise of ordinary or reasonable care, should have known that plaintiff would not know the dangerous characteristics of their said insulation, notwithstanding which defendants negligently failed to take reasonable precautions or exercise reasonable care to warn the plaintiff of said danger and to instruct the plaintiff in the proper handling of their said insulation, or to take any reasonable precautions or exercise any reasonable care to protect plaintiff from harm and negligently failed to adopt and enforce a reasonably safe

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plan and method of handling and installing said insulation.

(g) That the defendants knew or, in the exercise of reasonable care, ought to have known that their insulation was defective and that such insulation was not suitable for the purposes for which it was intended.

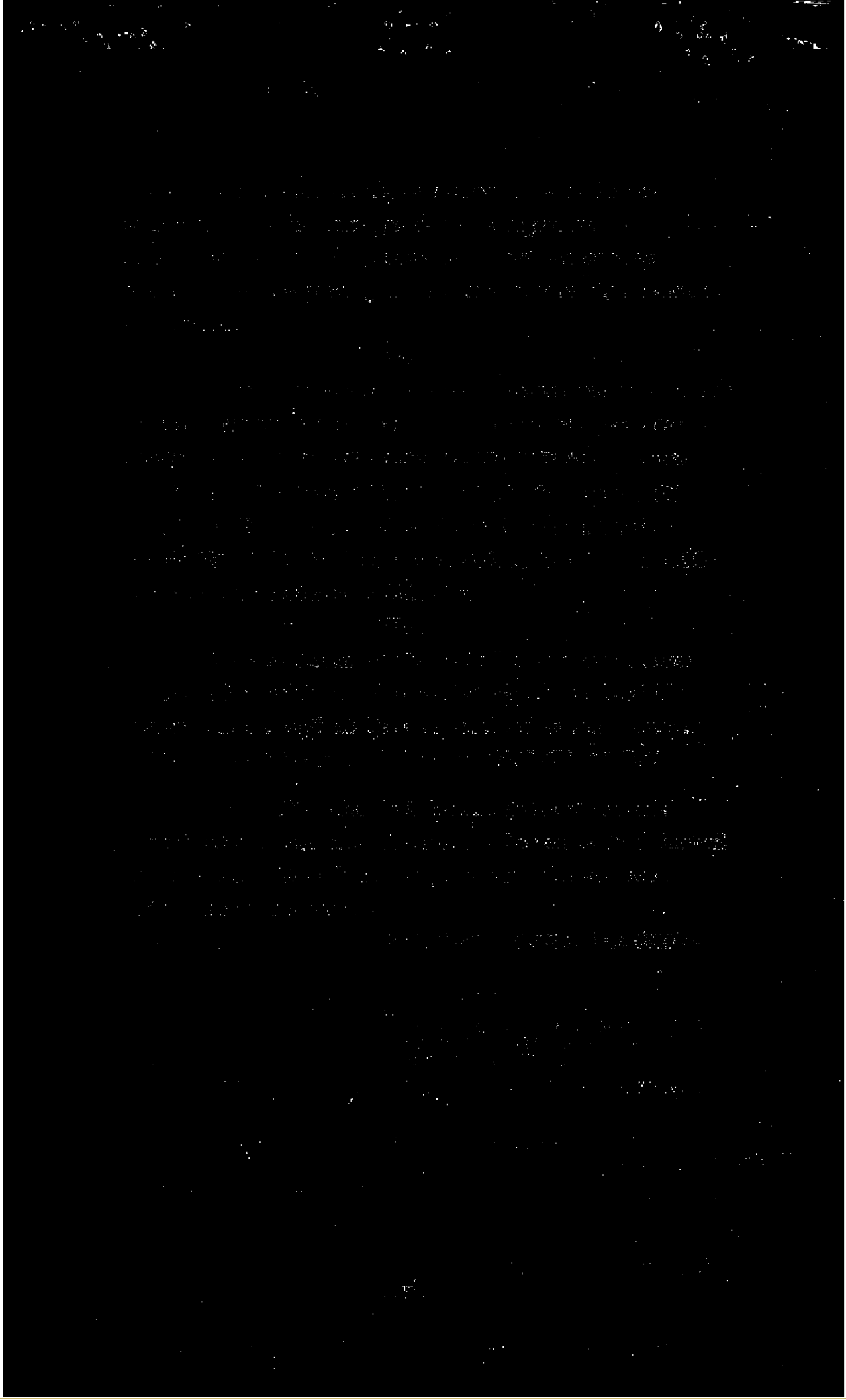
40.

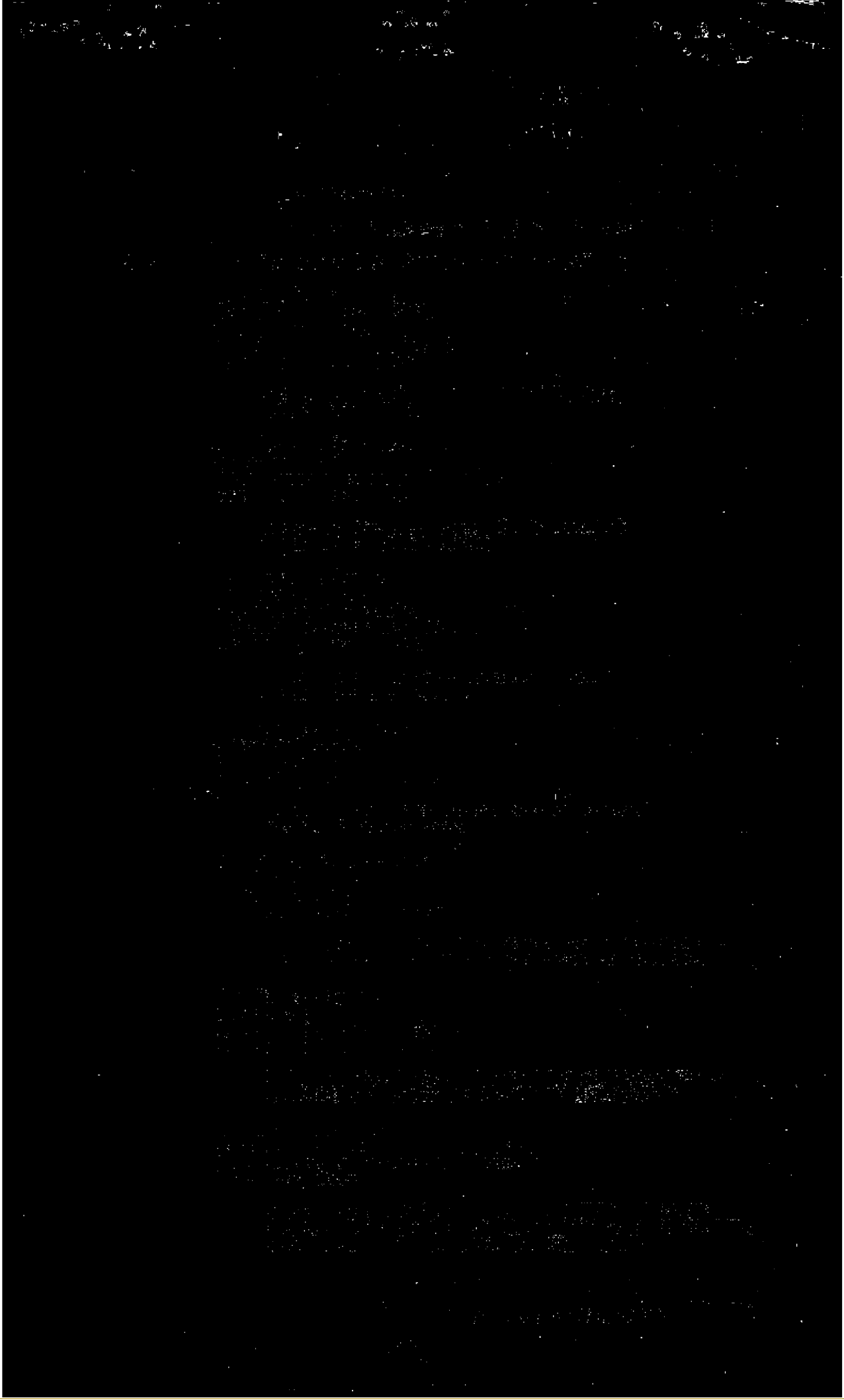
That as a direct and proximate cause of the aforesaid occurrences and circumstances and the negligence and carelessness of the defendants, plaintiff was permanently and severely injured; that he has sustained a very serious and permanent injury to his lungs and respiratory system, which has affected other parts of his body; that he suffers from shortness of breath, inability to breathe, clubbing of the fingers and toes; that it is necessary that plaintiff have available to him at all times a container containing oxygen in order that he may be able to breathe; that plaintiff has extreme difficulty with sleeping; that he tires easily; that he constantly coughs; that he has suffered from an extreme loss of weight; that his future outlook is very dim; that he has sought the services of many physicians in an effort to cure or arrest the condition from which he is suffering, but to no avail; that the plaintiff has lost his good health, all of which is permanently disabling to him.

41.

That by reason of the negligence and carelessness of the defendants, and each of them, as hereinbefore alleged, and because of the harm and injury to his health and the resulting disability therefrom, plaintiff has suffered a total loss of wages and earnings and will continue to suffer such loss; that he was unable to continue in his

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NO. 5402

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC., ET AL

PLAINTIFF'S FIRST AMENDED COMPLAINT

LAW OFFICES
STEPHENSON, THOMPSON & MORRIS
STEPHENSON BUILDING
ORANGE, TEXAS

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