

30. Was any and what manufactory or hazardous occupation carried on in the store mentioned in the said policy at the time the said policy was effected or since, and when, and did the Plaintiffs mention or conceal this fact from the Defendants?

40. At the time of effecting the said Insurance or afterwards, and if so, when, was any trade or occupation carried on in the said store which occasioned the use of fire heat, and combustibles, and the making of shavings; and was fire used in the said store, and were shavings allowed to accumulate therein while such trade or occupation was so carried on therein? and did the said Plaintiffs make known, or on the contrary did they not make known, the said facts to the Defendants?

50. At any time the execution of the said policy, was fire used in the said store without the same being provided with a good and substantial brick or stone chimney, and if so when? and was a stove pipe carried through the roof of the said store, at any time after the execution of the said policy, and if so, when?

60. What is the amount, if any of the Plaintiffs' loss by the fire mentioned in their declaration, upon the said store;

70. What is the amount, if any, of the Plaintiffs' loss, by the fire mentioned in their declaration, upon the wharf mentioned in this cause and in the said policy of insurance?

Answers of the Jury:—

To the 1st question. Yes.

To the 2nd question. Yes, on the 31st of March 1857, the said store was wholly consumed, and the said wharf partially injured by fire.

To the 3rd question. None at the time the policy was effected, but carpenters and joiners were at work subsequently in the building, and there was no concealment. The fact was not mentioned by the Plaintiffs to the Defendants.

To the 4th question. To the first part of the question, that is, that part of the question which refers to the time at which the policy was granted; no trade or occupation was carried on in the said store which occasioned the use of fire heat, or combustibles, or the making of shavings.

As to the second part of the question by which we mean that part which refers to the time after the effecting of the said insurance: Shavings were made but there is nothing to show that they were allowed to accumulate, and a trade was carried on which occasioned those shavings. In reply to the latter part of this question referring to the fact whether the Plaintiffs made known or not, the facts there referred to the Defendants we say "the Plaintiffs were silent."

To the 5th question. No stove pipe was carried through the roof, nor was there a good and substantial chimney in the building, but there was a fire occasionally made.

To the 6th question. Four hundred pounds.

To the 7th question. One hundred pounds.

And so they say all."

The result of the case has been already stated, and the nature of the judgment on the verdict.

It is clear that the case must now be considered, on the finding of the jury alone, and that the facts which they have certified must be accepted as the facts of the case, to the exclusion of all other evidence.

Before proceeding to notice these facts and their bearing upon the issue, it is important to impress upon the Court, that by the terms of the policy, there were effected—Two separate insurances, one upon the store £100, and the other upon the wharf £100, altogether independent one of the other, and that the Appellants might be entitled to one, or the other, or both, according to circumstances. How the case may be affected by this circumstance will be hereafter adverted to. At present the Appellants desire to draw the attention of the Court to the facts of the case as bearing upon both insurances, and entitling them to recover the whole amount of their loss. With this view, analysing the verdict of the Jury and excluding the answers to these questions about which no difficulty arises, the answers to the 3rd, 4th, & 5th questions, alone merit consideration. By these answers it is established, that carpenters and joiners were, for a time, at work in the building; that a trade was carried on which occasioned shavings; that shavings were not allowed to accumulate; that no concealment was practised by the Appellants; that no stove pipe was carried through the roof as alleged; that a fire was occasionally made, and that the Store was not provided with a good and substantial chimney. So that, by a further elimination of unimportant matter, two points only of enquiry present themselves, namely as to the employment of carpenters and as to the use of fire.

Now, on the first of these two points it is to be observed that the building was insured and had been so for a succession of years as a Store in a Shipyard, in conjunction with a forge and all the other adjuncts of an establishment devoted to naval architecture. The