

two months before the fire, and a great part of the goods which were upon the premises when that insurance was effected had been since removed, some of them only a few hours before the fire broke out. When the firemen broke the building open, after the fire had been discovered, they found the fire burning underneath a stove-pipe hole in the ceiling leading to a room above. On the floor and leading up to this hole were torn strips of clothing and other stuff on fire, with a strong smell of coal-oil; and a can of coal-oil was found upset on the floor. The prisoner gave evidence himself as to the keys of the premises, which was obviously untrue. His only defence at the trial was an alibi. He and the other occupants of his father-in-law's house, where he was sleeping at the time of the fire, swore that he and his wife came in a little before 10, and that they all went to bed shortly after that hour and did not wake up until the fire chief came about 2 o'clock and rang the bell. Even accepting their testimony, the defendant had ample time and opportunity, after they had gone to sleep, to slip out quietly and do all that was done at the store, say between 11 o'clock and 12.30, and return to his bed without waking any of the inmates.

The evidence at the trial was amply sufficient to justify the finding of "guilty," and the question submitted should be answered in the affirmative.

Conviction affirmed.

FIRST DIVISIONAL COURT.

MARCH 19TH, 1920.

VAUGHAN v. TORONTO AND YORK RADIAL R.W. CO.

Negligence—Collision of Street Railway Cars—Brake Failing to Work—Lack of Inspection—Neglect of Motorman—Evidence—Findings of Jury—Injury to Passengers—Damages—Appeal.

Appeal by the defendant company from the judgment of MASTEN, J., upon the findings of a jury, in an action by Annie Vaughan and her daughter Dorice to recover damages for injuries received by them while passengers on the defendants' railway by a collision between two of the defendants' cars. The plaintiff Annie was awarded \$7,085 damages and the plaintiff Dorice \$175, with one set of costs to both plaintiffs.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and FERGUSON, J.J.A.

I. F. Hellmuth, K.C., and W. Lawr, for the appellant company.

A. C. McMaster, for the plaintiffs, respondents.