

sion of fumes and noisome vapours from alkali works. Singularly enough, fire (a fairly obvious danger to neighbours) is not mentioned. That the rule does apply to fire is shewn by the cases of *Jones v. Festiniog Railway Co.* (1868), L.R. 3 Q.B. 733, and *Powell v. Fall* (1880), 5 Q.B.D. 597, both relating to the lighting of grass by sparks from an engine. The subject of liability for the escape of fire is, however, dealt with in more than one statute, and occupies rather a place by itself both in statutes and in the common law.

With respect to the common law the better opinion seems to be that the liability for spread of a fire lighted on one's own premises was absolute and did not depend on negligence. In an old case in the Year Books—*Beaulieu v. Fingham*, 2 Hen. 4. 18. pl. 5—the custom of the realm is thus stated: *Secundum legem et consuetudinem regni nostri Angliæ . . . quilibet de eodem regno ignem suum salvo et secure custodiat, et custodire teneatur, ne per ignem suum damnum aliquod vicinis suis ullo modo eveniat.* A statute of Anne dealt with this question, and finally came the Fires Prevention (Metropolis) Act, 1774 (14 Geo. III., c. 78), which, by section 86, enacted that no action should be brought "ag. inst any person in whose house, chamber, stable, barn or other building, or on whose estate any fire shall . . . accidentally begin, nor shall any recompense be made by such person for any damage suffered thereby."

This enactment has been held not to apply to cases where a fire has been intentionally lighted and has then spread to a neighbour's land: *Filliter v. Phippard* (1847), 11 Q.B. 347. Where, therefore, an ordinary occupier of land has himself (or by his servants or agents) lighted the fire, the question whether his liability for damage done to his neighbour is absolute, or qualified by the necessity for proving negligence, must still be governed by the rules of the common law, and by decided cases, independently of statute law. It should be noticed that fires from engine sparks come under the Railway Fires Act, 1905. In *Filliter v. Phippard*, supra, it was also held that section 86