

## DAMAGE CAUSED BY EXPLOSION—ABSENCE OF EXACT PROOF OF CAUSE OF INJURY—VERDICT—EVIDENCE.

*McArthur v. Dominion Cartridge Co.* (1905) A.C. 72 was an appeal from the Supreme Court of Canada, 30 S.C.R. 285, involving an important question. The action arose in Quebec, the plaintiff being an employee of the Dominion Cartridge Company. It appeared by the evidence that while engaged in operating an automatic machine for filling cartridges, an explosion took place whereby the plaintiff was injured. There was no proof as to the exact cause of the explosion, but the flash communicated through a pipe with a powder box fixed on the outside of the building in which the machine stood. This box was placed outside so that in case of an explosion it would spend itself in the open air, but the sides of this box had been strengthened externally, for some reason or other, unexplained, and the result was that the explosion took effect inwards. There was some slight evidence that the machine itself was defective, and the jury at the trial found the defendants had been guilty of neglect in not supplying suitable machinery, and that the injury to the plaintiff was not in anyway caused by his own fault or negligence. The judge at the trial reserved the case for the Court of Review; that Court dismissed the defendants' motion for a new trial, and gave judgment for the plaintiff. The Supreme Court, however, reversed that decision and granted a new trial. Girouard, J., who delivered the judgment of the majority of the Court, apparently being influenced by some decisions in France which are stated to be "unanimous in exacting proof of a fault which certainly caused the injury," but with regard to this Lord Macnaghten observes: "French decisions though entitled to the highest respect and valuable as illustrations are not binding authority in Quebec. . . . It is enough to say that although the proposition for which they are cited may be reasonable in the circumstances of a particular case, it can hardly be applicable when the accident causing the injury is the work of a moment, and the eye is incapable of detecting its origin or following its course. It cannot be of universal application, or utter destruction would carry with it complete immunity—for the employer." Their Lordships, considering that there was some evidence on which the jury might reasonably find as they did, thought the verdict should not be disturbed, and they accordingly reversed the judgment of the Supreme Court. In view of this decision it is possible that some other decisions of the Supreme Court in cases under the Workmen's Compensation and Fatal Accidents Acts may need to be reconsidered.