

FIRE RISK OF MOTOR CARS.

Musgrove vs. Pandelis, and Others.

An interesting case was recently decided before Mr. Justice Lush in England, in which the plaintiff claimed damages on the ground that owing to the negligence of the defendants, his premises were injured by fire. In his statement of claim he alleged that the servant of the defendant Pandelis, a man named Coumas, through inexperience, had struck a match and thrown it on the floor of a garage, thereby causing a fire in which he, the plaintiff suffered damage. At the close of the case the plaintiff pressed that point only faintly, but he complained that the defendant had been negligent by not diminishing the pressure in the carburetter of a motor-car in his garage, and had, therefore, been responsible for the fire. His Lordship did not think that it was a matter for complaint that the plaintiff altered his case after the hearing of Coumas's evidence. Coumas was the only person who knew what had happened, and it was not until he had given his evidence that the plaintiff could shape his case. On the part of the defendants the case was contested on the issue of negligence. At the eleventh hour it was contended for the defendants that the action was not maintainable because of the Fires Prevention (Metropolis) Act (14 Geo. III. c. 78), which provided that no action should be maintained against any person in whose house a fire should accidentally begin. That defence was not pleaded, but His Lordship, having come to the conclusion that under the Rules it should have been so, had given both parties leave to amend and treated the claim as containing an allegation that the fire was not accidental. The plaintiff had closed his case with the evidence that Mr. Pandelis sent his servant Coumas to clean the motor-car and that while he was doing so the fire broke out. Coumas was utterly unskilled in the use of motor-cars. He had had a few lessons in driving. The car had been backed up against the wall of the garage, and Coumas said that when he went to clean the car he could not get round it without moving it. He therefore turned the handle and started the engines, and switched on the electric lamps at the front and rear. When he turned the handle a flame shot up from the carburetter. No doubt the valve was dirty and a spark found its way out of the carburetter, which was at least a foot-and-a-half from any woodwork. What a prudent person ought to have done was to shut off the flow of petrol. Coumas, in not doing what he ought to have done, was negligent, and it was that negligence which caused the fire to be a source of mischief which must ultimately endanger the building. The defendants now relied on the statute. The question under it was: Did the fire begin accidentally? They said that it began in the carburetter accidentally, and that the accident

came within the statute. His Lordship agreed that the fire began accidentally, but he had to ask what was the meaning of the words of the Act "in whose house any fire should accidentally begin." At common law there was a presumption that every fire of which the origin could not be traced was kindled by the owner of the premises or his servant. If a householder could affirmatively prove that a stranger had kindled the fire, then he was not liable. The Statute of Anne was passed to relieve the householder from the severity of the common law, and it used language similar to that in the amending Act or 14 Geo. III. c. 78. He had to ascertain the meaning of "accidentally begin."

If a person through negligence caused a fire to be kindled and it spread to the property of another, that was not within the Act. But if a person brought on his premises anything which in the ordinary course of use was liable to cause a fire, and a fire was caused, the fire was not accidentally begun, although the act which first led to the fire was not negligent. A person who was mixing chemicals, for example, must know that as a natural consequence of his act a fire must sooner or later develop. If in such circumstances a fire did develop, that was not "accidental," and he could not claim the protection of the statute. There was evidence that fires caused by motor-cars were more or less common. Therefore a person who had a motor-car which would sooner or later cause a fire in the carburetter could not say in law that the kindling of the fire was "accidental." There was no reason why the principle of "Fletcher vs. Rylands" should apply to a traction engine and not to a motor-car. Therefore, the fire kindled by the servant in the circumstances of this case, whether he had been negligent or not, rendered the defendants liable. The fire in the garage did not begin when the carburetter ignited. No one in his senses could say that the premises went on fire the moment the flame appeared in the carburetter. Who could say that when chemicals in a bowl produced a flame the chemist's premises were on fire? The real question was, what was the efficient cause? The carburetter in this case was the "causa sine qua non," but it was not the efficient cause. If a man saw a live coal fall from the grate on the carpet of a room, or a lighted candle fall on the floor, and took no steps to quench either, His Lordship was not sure that it would be true to say that the fire which ensued was an accident. There must be judgment for the plaintiff.

THE OFFICE BOY'S CONUNDRUM.

The office boy was overheard giving the following conundrum to the loss clerk:

"Why does a certain firm of adjusters remind you of a crow?"

"Because of their Caws and Caws."