# LLOYD'S LIST
# LAW REPORTS

Editor :
E. S. MATHERS
of the Middle Temple, Barrister-at-Law

1957

Volume 2

PRINTED AND PUBLISHED BY LLOYD'S
AT LLOYD'S, LONDON, ENGLAND
1958

# CASES CITED


| | | PAGE |
|---|---|---|
| Aktieselskabet Ocean v. B. Harding & Sons, Ltd., and Others | [1928] 2 K.B. 371; (1928) 30 Ll.L.Rep. 249 | 207 |
| Alexander v. Rayson | [1936] 1 K.B. 169 | 1 |
| *Alhambra*, The | (1881) 6 P.D. 68 | 153 |
| Amalgamated Properties of Rhodesia (1913), Ltd. v. Globe and Phœnix Gold Mining Company, Ltd. | [1916] W.N. 414 | 319 |
| *Ancona*, The | [1915] P. 200 | 506 |
| Anglo-Saxon Petroleum Company, Ltd. v. Adamastos Shipping Company, Ltd. | [1957] 1 Lloyd's Rep. 79 | 207 |
| Arcangelo v. Thompson | (1811) 2 Camp. 620 | 485 |
| Ardan Steamship Company, Ltd. v. Andrew Weir & Co. | [1905] A.C. 501 | 423 |
| Armement Adolf Deppe v. John Robinson & Co., Ltd. | [1917] 2 K.B. 204 | 423 |
| Ashby and Others v. Bates | (1846) 15 M. & W. 589 | 485 |
| *Asia*, The | [1954] 2 Lloyd's Rep. 614 | 557 |
| Asiatic Petroleum Company, Ltd. v. Lennard's Carrying Company, Ltd. | [1914] 1 K.B. 419; [1915] A.C. 705 | 247 |
| *Athenee*, The | (1922) 11 Ll.L.Rep. 6 | 551 |
| *Austin Friars*, The | (1894) 10 T.L.R. 633 | 423 |
| Bamfield v. Goole and Sheffield Transport Company, Ltd. | [1910] 2 K.B. 94 | 55 |
| Bank of England v. Vagliano Brothers | [1891] A.C. 107 | 207 |
| Bath and Another v. British Transport Commission | [1954] 1 Lloyd's Rep. 463 | 495 |
| Baxter's Leather Company v. Royal Mail Steam Packet Company | [1908] 2 K.B. 626 | 153 |
| Baxters and the Midland Railway Company, *In re* | (1906) 95 L.T. 20 | 191 |
| Becquet and Others v. MacCarthy | (1831) 2 B. & Ad. 951 | 601 |
| Bell (Surveyor of Taxes) v. National Provincial Bank of England, Ltd. | [1904] 1 K.B. 149 | 238 |
| —— and Another v. Lever Brothers, Ltd., and Others | [1932] A.C. 161 | 339 |
| Ben Line Steamers, Ltd. v. Compagnie Optorg, of Saigon | (1937) 57 Ll.L.Rep. 194 | 191 |
| Berg v. Sadler and Moore | [1937] 2 K.B. 158 | 1 |
| Berg & Son v. Rotterdamsche Lloyd | (1918) 23 Com. Cas. 288 | 557 |
| Biggs and Others v. Lawrence | (1789) 3 T.R. 454 | 289 |
| Blackburn, Low & Co. v. Vigors | (1886) 17 Q.B.D. 553; (1887) 12 App. Cas. 531 | 466 |
| Boissevain v. Weil | (C.A.) [1949] 1 All E.R. 146; (H.L.) [1950] 1 All E.R. 728 | 1 |
| Bond Air Services, Ltd. v. Hill | [1955] 2 Q.B. 417; [1955] 1 Lloyd's Rep. 498 | 485 |
| Borys v. Canadian Pacific Railway Company and Another | [1953] A.C. 217 | 55 |
| *Bothwell*, The | (1924) 19 Ll.L.Rep. 162 | 557 |
| Boucher v. Lawson | (1734) Ca. *t.* H. 85 | 289 |
| Bourne & Hollingsworth v. Marylebone Corporation | (1908) 24 T.L.R. 322; (C.A.) (1908) 24 T.L.R. 613 | 375 |
| Brandt and Another v. Liverpool, Brazil and River Plate Steam Navigation Company, Ltd. | [1924] 1 K.B. 575; (1923) 17 Ll.L.Rep. 142 | 1 |
| Brass v. Maitland | (1856) 6 E. & B. 470 | 55 |
| British Transport Commission v. Gourley | [1956] A.C. 185; [1955] 2 Lloyd's Rep. 475 | 575 |
| Brostrom & Son v. Dreyfus & Co. | (1932) 44 Ll.L.Rep. 136 | 153 |
| Burton & Co. v. English & Co. | (1883) 12 Q.B.D. 218 | 207 |

CASES CITED—*continued.*


| | | PAGE |
|---|---|---|
| *Cargill*, The ... ... ... ... ... ... | [1951] 2 Lloyd's Rep. 527 ... ... | 557 |
| *Carron Park*, The ... ... ... ... ... | (1890) 15 P.D. 203 ... ... ... | 207 |
| Charles and Another v. Altin ... ... ... | (1854) 15 C.B. 46 ... ... ... | 207 |
| Coles and Ravenshear, *In re* ... ... ... | [1907] 1 K.B. 1 ... ... ... ... | 191 |
| Commissioners of Inland Revenue v. Forrest (Secretary of the Institution of Civil Engineers) | (1890) 15 App. Cas. 334 ... ... | 29 |
| Compania Naviera Maropan S/A v. Bowaters Lloyd Pulp and Paper Mills, Ltd. | [1955] 2 Q.B. 68; [1954] 2 Lloyd's Rep. 397; (C.A.) [1955] 1 Lloyd's Rep. 349 ... ... ... ... | 153 |
| Compania Naviera Vasconzada v. Churchill & Sim | [1906] 1 K.B. 237 ... ... ... | 1 |
| Crofter Hand Woven Harris Tweed Company, Ltd., and Others v. Veitch and Another | [1942] A.C. 435 ... ... ... ... | 1 |
| Darroch (or O'Brien) v. Enrico Arbib & Co. ... | [1907] Sess. Cas. 975; (1907) 15 S.L.T. 78 ... ... ... ... ... | 387 |
| De Beéche and Others v. South American Stores, Ltd. | [1935] A.C. 148 ... ... ... ... | 289 |
| De Wütz v. Hendricks ... ... ... ... | (1824) 2 Bing. 314 ... ... ... | 289 |
| Dent and Others v. Glen Line, Ltd. ... ... | (1940) 67 Ll.L.Rep. 72 ... ... ... | 1 |
| Dimech v. Corlett ... ... ... ... ... | (1858) 12 Moo. P.C.C. 199 ... ... | 153 |
| Dodworth (H.M. Inspector of Taxes) v. Dale ... | [1936] 2 K.B. 503 ... ... ... | 238 |
| Donovan v. Cammell Laird & Co., Ltd., and Others | (1949) 82 Ll.L.Rep. 642 ... ... ... | 387 |
| Dreyfus & Co. v. Tempus Shipping Co. ... ... | [1931] A.C. 726; (1931) 40 Ll.L.Rep. 217 | 207 |
| Emperor of Austria v. Day and Kossuth ... ... | (1861) 3 De G.F. & J. 217 ... ... | 289 |
| *Empire Nene*, The ... ... ... ... ... | (1948) 82 Ll.L.Rep. 101 ... ... | 557 |
| *Esso Plymouth*, The ... ... ... ... | [1955] 1 Lloyd's Rep. 429 ... ... | 197 |
| *Ettrick*, The ... ... ... ... ... ... | (1881) 6 P.D. 127 ... ... ... | 207 |
| Firth v. Staines ... ... ... ... ... | [1897] 2 Q.B. 70 ... ... ... | 238 |
| Fitzwilliam v. Attorney-General ... ... ... | Butterworths Costs, 5th Cumulative Supplement (1957), at p. E19 ... | 319 |
| Foster v. Driscoll and Others ... ... ... | [1929] 1 K.B. 470 ... ... ... | 289 |
| *Fulham*, The ... ... ... ... ... ... | (1948) 81 Ll.L.Rep. 301 ... ... | 506 |
| Gatti v. Shoosmith ... ... ... ... ... | [1939] 3 All E.R. 916 ... ... ... | 191 |
| Gavazzi v. Mace (H.M. Inspector of Taxes) ... | (1926) 10 T.C. 698 ... ... ... | 238 |
| Geach and Another v. Ingall ... ... ... | (1845) 14 M. & W. 95 ... ... ... | 485 |
| *Glenfruin*, The ... ... ... ... ... | (1885) 10 P.D. 103 ... ... ... | 207 |
| *Glengyle*, The ... ... ... ... ... | [1898] P. 97; [1898] A.C. 519 ... ... | 575 |
| Godard and Another v. Gray and Another ... | (1870) L.R. 6 Q.B. 139 ... ... ... | 153 |
| Government of India v. Taylor ... ... ... | [1955] A.C. 491 ... ... ... ... | 289 |
| Grace & Co., Ltd. v. General Steam Navigation Company, Ltd. | [1950] 2 K.B. 383; (1949) 83 Ll.L.Rep. 297 ... ... ... ... ... | 153 |
| Great Northern Railway Company v. L.E.P. Transport and Depository, Ltd. | [1922] 2 K.B. 742; (1922) 11 Ll.L.Rep. 133 ... ... ... ... ... | 55 |
| Greenshields, Cowie & Co. v. Stephens & Sons, Ltd. | [1908] A.C. 431 ... ... ... ... | 207 |
| Hain Steamship Company, Ltd. v. Tate & Lyle, Ltd. | (1936) 55 Ll.L.Rep. 159 ... ... | 207 |
| Hampshire Land Company, *In re* ... ... ... | [1896] 2 Ch. 743 ... ... ... | 466 |
| *Harberton*, The ... ... ... ... ... | [1913] P. 149 ... ... ... ... | 506 |
| Harrison v. Metropolitan-Vickers Electrical Company, Ltd. | [1954] 1 All E.R. 404 ... ... ... | 495 |
| Hartley v. Mayoh & Co., and Another ... ... | [1954] 1 Q.B. 383; [1954] 1 All E.R. 375 ... ... ... ... ... | 387 |
| Harvey v. Royal Mail Lines, Ltd., and Another ... | (1941) 82 Ll.L.Rep. 778n; (1941) 65 T.L.R. 286 ... ... ... ... | 387 |

CASES CITED—*continued.*


| | | PAGE |
|---|---|---|
| Hawkings v. Thames Stevedoring Company, Ltd., and Another | (1936) 55 Ll.L.Rep. 83 | 387 |
| Heilbut, Symons & Co. v. Buckleton | [1913] A.C. 30 | 375 |
| Heskell v. Continental Express, Ltd., and Another | (1950) 83 Ll.L.Rep. 438 | 153 |
| Hillas & Co., Ltd. v. Arcos, Ltd. | (1932) 43 Ll.L.Rep. 359 | 319 |
| Hodgson and Others v. Temple | (1813) 5 Taunt. 181 | 289 |
| Hogarth and Others v. Cory Brothers & Co., Ltd. | (1926) 32 Com. Cas. 174 | 423 |
| Holland Colombo Trading Society, Ltd. v. Segu Mohamed Khaja Alawdeen and Others | [1954] 2 Lloyd's Rep. 45 | 591 |
| Holman v. Johnson | (1775) 1 Cowp. 341 | 1, 289 |
| *Hontestroom*, The | [1927] A.C. 37; (1926) 25 Ll.L.Rep. 377 | 197 |
| Hordern-Richmond, Ltd. v. Duncan | [1947] K.B. 545 | 207 |
| Hornal v. Neuberger Products, Ltd. | [1957] 1 Q.B. 247 | 601 |
| Houghton & Co. v. Nothard, Lowe & Wills, Ltd. | [1928] A.C. 1; (1927) 29 Ll.L.Rep. 63 | 466 |
| Huddersfield Police Authority v. Watson | [1947] 2 All E.R. 193 | 575 |
| Hudson's Bay Company v. Domingo Mumbru S/A | (1921) 7 Ll.L.Rep. 51; (1921) 9 Ll.L.Rep. 196; (C.A.) (1922) 10 Ll.L.Rep. 476 | 191, 423 |
| Huntington v. Attrill | [1893] A.C. 150 | 289 |
| *Indus*, The | [1957] 1 Lloyd's Rep. 335 | 197 |
| Joel v. Law Union and Crown Insurance Company | [1908] 2 K.B. 863 | 466 |
| Johnston Brothers v. Saxon Queen Steamship Company | (1913) 108 L.T. 564 | 153 |
| Jones, Ltd. v. Green & Co. | [1904] 2 K.B. 275 | 423 |
| Kahler v. Midland Bank, Ltd. | [1950] A.C. 24 | 289 |
| Kent v. Elstob and Others | (1802) 3 East 18 | 191 |
| Kininmonth v. William France, Fenwick & Co., Ltd., and the Railway Executive | (1949) 82 Ll.L.Rep. 768; (1949) 65 T.L.R. 285 | 387 |
| Kleinwort, Sons & Co. v. Ungarische Baumwolle Industrie Aktiengesellschaft and Another | [1939] 2 K.B. 678 | 289 |
| Koenigsblatt v. Sweet | [1923] 2 Ch. 314 | 238 |
| Krog & Co. v. Burns & Lindemann | [1903] Sess. Cas. 1189 | 423 |
| Leonis Steamship Company, Ltd. v. Rank, Ltd. | [1907] 1 K.B. 344; (C.A.) [1908] 1 K.B. 499 | 423 |
| Lilly & Co. v. D. M. Stevenson & Co. | (1895) 22 Sess. Cas. 278 | 423 |
| Little v. Stevenson & Co. | [1896] A.C. 108 | 423 |
| Locker & Woolf, Ltd. v. Western Australian Insurance Company, Ltd. | [1936] 1 K.B. 408; (1936) 54 Ll.L.Rep. 211 | 466 |
| *Luckenbach*, The | [1951] P. 197; (1950) 84 Ll.L.Rep. 538 | 207 |
| Luther v. Sagor & Co. | [1921] 3 K.B. 532 | 289 |
| Mackay v. Dick and Another | (1881) 6 App. Cas. 251 | 423 |
| Mackey v. James Henry Monks (Preston), Ltd. | [1918] A.C. 59 | 387 |
| Manchester Ship Canal Company v. Director of Public Prosecutions | [1930] 1 K.B. 547; (1929) 35 Ll.L.Rep. 272 | 387 |
| Massey-Harris-Ferguson (Manufacturing), Ltd. v. Piper | [1956] 2 Q.B. 396 | 387 |
| Melachrino and Another v. Nickoll and Knight | [1920] 1 K.B. 693 | 528 |
| Metropolitan Police District Receiver v. Croydon Corporation and Another | [1956] 2 All E.R. 785 | 575 |
| Milburn & Co. v. Jamaica Fruit Importing and Trading Company of London | [1900] 2 Q.B. 540 | 207 |

CASES CITED—*continued.*


| | | PAGE |
|---|---|---|
| Monarch Steamship Co., Ltd. v. Karlshamns Oljefabriker (A/B) | [1949] A.C. 196; (1948) 82 Ll.L.Rep. 137 | 153 |
| Montgomery, Jones, & Co. and Liebenthal & Co., *In re* | (1898) 78 L.T. 406 | 191 |
| Mowbray and Another v. Merryweather | [1895] 2 Q.B. 640 | 153 |
| Mulholland & Tedd, Ltd. v. Baker | [1939] 3 All E.R. 253 | 601 |
| Musgrove v. Pandelis | [1919] 1 K.B. 314 | 601 |
| Naismith v. London Film Productions, Ltd. | [1939] 1 All E.R. 794 | 38 |
| National Bank of Egypt v. Hannevig's Bank, Ltd. | LLOYD'S LIST AND SHIPPING GAZETTE, May 7, 1919; (C.A.) (1919) 1 Ll.L.Rep. 69; Legal Decisions Affecting Bankers, Vol. III, p. 213 | 591 |
| Nello Simoni v. A/S M/S Straum | (1949) 83 Ll.L.Rep. 157 | 191 |
| Newcastle Fire Insurance Company v. MacMorran & Co. | (1815) 3 Dow. 255 | 485 |
| Nielsen, Andersen & Co. v. Collins (H.M. Inspector of Taxes) | (1926) 13 T.C. 91 | 238 |
| O'Brien v. Enrico Arbib & Co. | [1907] Sess. Cas. 975; (1907) 15 S.L.T. 78 | 387 |
| *Oropesa*, The | [1943] P. 32; (1942) 74 Ll.L.Rep. 86 | 153 |
| Palace Shipping Company, Ltd. v. Caine and Others | [1907] A.C. 386 | 261 |
| Paris v. Stepney Borough Council | [1951] A.C. 367; (1950) 84 Ll.L.Rep. 525 | 247 |
| Payne & Co., Ltd., *In re* | [1904] 2 Ch. 608 | 466 |
| Pearce and Another v. Brooks | (1866) L.R. 1 Ex. 213 | 1, 289 |
| Pellecat v. Angell | (1835) 2 Cr. M.R. 311 | 289 |
| Philco Radio and Television Corporation of Great Britain, Ltd. v. J. Spurling, Ltd. and Others | [1949] 2 All E.R. 882 | 153 |
| Pyman Brothers v. Dreyfus Brothers & Co. | (1889) 24 Q.B.D. 152 | 423 |
| Racecourse Betting Control Board v. Secretary for Air | [1944] Ch. 114 | 551 |
| Ralli Brothers v. Compañia Naviera Sota y Aznar | [1920] 2 K.B. 287; (1920) 2 Ll.L.Rep. 550 | 289 |
| Reardon Smith Line, Ltd. v. Australian Wheat Board | [1956] A.C. 266; [1956] 1 Lloyd's Rep. 1 | 153 |
| Reed & Co., Ltd. v. London & Rochester Trading Company, Ltd. | [1954] 2 Lloyd's Rep. 463 | 48 |
| Renton & Co., Ltd. v. Palmyra Trading Corporation of Panama | [1957] A.C. 149; [1956] 2 Lloyd's Rep. 379 | 207 |
| *Rex* v. Carr-Briant | [1943] K.B. 607 | 601 |
| —— v. Northumberland Compensation Appeal Tribunal; *Ex parte* Shaw | [1951] 1 K.B. 711 | 191 |
| Robson v. Sykes | [1938] 2 All E.R. 612 | 261 |
| Roland-Linie Schiffahrt G.m.b.H. v. Spillers, Ltd., and Others | [1957] 1 Q.B. 109; [1956] 2 Lloyd's Rep. 211 | 423 |
| Roth & Co. v. Taysen, Townsend & Co., and Others | (1895) 1 Com. Cas. 207; (C.A.) (1896) 1 Com. Cas. 306 | 528 |
| Scammell & Nephew, Ltd. v. Ouston | [1941] A.C. 251 | 319 |
| Schloss v. Walter Heriot and Others | (1863) 14 C.B. (N.S.) 59 | 207 |
| Schmidt v. Royal Mail Steamship Company | (1876) 45 L.J. (Q.B.) 646 | 207 |
| Schoolman v. Hall | [1951] 1 Lloyd's Rep. 139 | 466 |

CASES CITED—*continued.*


| | | PAGE |
|---|---|---|
| Scott v. Brown, Doering, McNab & Co. ... ... | [1892] 2 Q.B. 724 ... ... ... | 1 |
| Shackell v. Rosier ... ... ... ... ... | (1836) 2 Bing. (N.C.) 634 ... ... | 1 |
| Sharp v. Taylor ... ... ... ... ... | (1849) 2 Ph. 801 ... ... ... | 289 |
| Shaw & Co. v. Symmons & Sons ... ... ... | [1917] 1 K.B. 799 ... ... ... | 601 |
| Silver v. Ocean Steamship Company, Ltd. ... | [1930] 1 K.B. 416; (1929) 35 Ll.L.Rep. 49 | 1 |
| Sinason-Teicher Inter American Grain Corporation v. Oilcakes & Oilseeds Trading Company, Ltd. | [1954] 1 Lloyd's Rep. 376; [1954] 2 All E.R. 497; (C.A.) [1954] 2 Lloyd's Rep. 327 ... ... ... | 191, 528 |
| Smith v. Baker & Sons ... ... ... ... | [1891] A.C. 325 ... ... ... ... | 38 |
| —— v. H. Baveystock & Co., Ltd. ... ... | [1945] 1 All E.R. 278 ... ... ... | 207 |
| —— v. Dart & Son ... ... ... ... | (1884) 14 Q.B.D. 105 ... ... ... | 153 |
| Smyth & Co., Ltd. v. W. N. Lindsay, Ltd. ... | [1953] 2 Lloyd's Rep. 378 ... ... | 353 |
| Sovfracht (V/O) v. Van Udens Scheepvaart en Agentuur Maatschappij (N.V. Gebr.) | [1943] A.C. 203 ... ... ... ... | 238 |
| Spence v. Commissioners of Inland Revenue ... | (1941) 24 T.C. 311 ... ... ... | 238 |
| Standard Oil Company of New York v. Clan Line Steamers, Ltd. | [1924] A.C. 100; (1923) 17 Ll.L.Rep. 120 ... ... ... ... ... | 247 |
| Stanton Ironworks Company, Ltd. v. Skipper ... | [1956] 1 Q.B. 255 ... ... ... | 387 |
| Stebbing v. Liverpool and London and Globe Insurance Company, Ltd. | [1917] 2 K.B. 433 ... ... ... | 485 |
| Stevenson & Sons, Ltd. v. Aktiengesellschaft Für Carton-nagen-Industrie | [1918] A.C. 239 ... ... ... ... | 238 |
| Strang, Steel & Co. v. A. Scott & Co. ... ... | (1889) 14 App. Cas. 601 ... ... | 207 |
| Studebaker Distributors, Ltd. v. Charlton Steam Shipping Company, Ltd. | [1938] 1 K.B. 459; (1937) 59 Ll.L.Rep. 23 ... ... ... ... ... | 591 |
| *Susan V. Luckenbach,* The ... ... ... | [1951] P. 197; (1950) 84 Ll.L.Rep. 538 | 207 |
| *Telemachus,* The ... ... ... ... ... | [1957] P. 47; [1956] 2 Lloyd's Rep. 490 | 575 |
| Temple Steamship Company, Ltd. v. V/O. Sovfracht | (1943) 76 Ll.L.Rep. 35 ... ... ... | 191 |
| Tempus Shipping Company, Ltd. v. Louis Dreyfus & Co., Ltd. | [1930] 1 K.B. 699; (1930) 36 Ll.L.Rep. 159; (C.A.) [1931] 1 K.B. 195; (1930) 37 Ll.L.Rep. 273; (H.L.) [1931] A.C. 726; (1931) 40 Ll.L.Rep. 217 ... ... ... | 207 |
| Thornett and Fehr and Yuills, Ltd., *In re* ... | [1921] 1 K.B. 219 ... ... ... | 528 |
| Trans Trust S.P.R.L. v. Danubian Trading Company, Ltd. | [1952] 2 Q.B. 297; [1952] 1 Lloyd's Rep. 348 ... ... ... ... | 223 |
| *Trivia,* The ... ... ... ... ... ... | [1952] 1 Lloyd's Rep. 548 ... ... | 557 |
| United Baltic Corporation, Ltd. v. Dundee, Perth & London Shipping Company, Ltd. | (1928) 32 Ll.L.Rep. 272 ... ... | 1 |
| Van Nievelt Goudriaan Stoomvaart Maatschappij v. C. A. Forslind & Son, Ltd. | (1925) 22 Ll.L.Rep. 49; (1925) 30 Com. Cas. 263 ... ... ... ... | 423 |
| Vandepitte v. Preferred Accident Insurance Corporation of New York | [1933] A.C. 70; (1932) 44 Ll.L.Rep. 41 | 319 |
| Vergottis v. William Cory & Son, Ltd. ... ... | [1926] 2 K.B. 344 ... ... ... | 423 |
| Vincent v. Southern Railway Company ... ... | [1927] A.C. 430 ... ... ... ... | 207 |
| *Vine,* The ... ... ... ... ... ... | (1825) 2 Hag. Adm. 1 ... ... ... | 575 |
| Wall v. Rederiaktiebolaget Luggude ... ... | [1915] 3 K.B. 66 ... ... ... | 153 |
| Walters v. Joseph Rank, Ltd. ... ... ... | (1923) 14 Ll.L.Rep. 421; (1923) 39 T.L.R. 255 ... ... ... ... | 591 |
| Watts, Watts & Co., Ltd. v. Mitsui & Co., Ltd. ... | [1917] A.C. 227 ... ... ... ... | 153 |
| Waugh v. Morris ... ... ... ... ... | (1873) L.R. 8 Q.B. 202 ... ... ... | 289 |

CASES CITED—*continued.*


| | | PAGE |
|---|---|---|
| Wilkinson v. Rea, Ltd., and Others ... ... | [1941] 1 K.B. 688; (1941) 69 Ll.L.Rep. 147 ... ... ... ... ... | 387 |
| Williams v. Manisselian Frères ... ... ... | (1923) 17 Ll.L.Rep. 72 ... ... ... | 311 |
| ——— v. Owen ... ... ... ... ... | [1955] 1 W.L.R. 1293 ... ... ... | 601 |
| Wilson and Another v. Tumman and Fretson ... | (1843) 6 M. & G. 236 ... ... ... | 238 |
| Wingrove v. Prestige & Co., Ltd. ... ... ... | [1954] 1 All E.R. 576 ... ... ... | 387 |
| Workington Harbour and Dock Board v. *Tower Field* (Owners) | [1951] A.C. 112; (1950) 84 Ll.L.Rep. 233 ... ... ... ... ... | 557 |
| Yorke v. Yorkshire Insurance Company, Ltd. ... | [1918] 1 K.B. 662 ... ... ... | 466 |

# STATUTES CONSIDERED.


| | Page |
|---|---|
| UNITED KINGDOM— | |
| ADMINISTRATION OF JUSTICE ACT, 1956. | |
| Sect. 1 (1) (g) | 551 |
| BANKRUPTCY ACT, 1914. | |
| Sect. 9 | 270 |
| FACTORIES ACT, 1937. | |
| Sect. 25 (3) | 495 |
| FIRES PREVENTION (METROPOLIS) ACT, 1774. | |
| Sect. 86 | 601 |
| INCOME TAX ACT, 1918. | |
| General Rules Applicable to Schedules A, B, C, D and E. | |
| Rule 5 | 238 |
| Rule 6 | 238 |
| Rule 10 | 238 |
| MANCHESTER SHIP CANAL ACT, 1893. | |
| Sect. 35 | 539 |
| MERCHANT SHIPPING ACT, 1894. | |
| Sect. 221 | 517 |
| Sect. 222 | 517 |
| Sect. 224 | 517 |
| Sect. 225 | 261 |
| Sect. 503 | 247 |
| MERSEY DOCK ACTS CONSOLIDATION ACT, 1858 | 127 |
| MERSEY DOCKS AND HARBOUR ACT, 1857 | 127 |
| PORT OF LONDON (CONSOLIDATION) ACT, 1920. | |
| Sect. 149 | 557 |
| Sect. 150 | 557 |
| Sect. 155 (5) | 557 |
| RATING AND VALUATION (MISCELLANEOUS PROVISIONS) ACT, 1955. | |
| Sect. 8 (1) (a) | 29 |
| SALE OF GOODS ACT, 1893. | |
| Sect. 14 | 339 |
| TRANSPORT CHARGES &C. (MISCELLANEOUS PROVISIONS) ACT, 1954. | |
| Sect. 6 | 127, 539 |

# CONTENTS

**NOTE:—These Reports should be cited as "[1957] 2 Lloyd's Rep."**

PAGE

Agrimpex Hungarian Trading Company for Agricultural Products v. Sociedad Financiera de Bienes Raices, S.A. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... ... ... 423
*Anonity*, The —— [Adm.] ... ... ... ... ... ... ... 20
*Atlantic Duchess*, The —— [Q.B. (Com. Ct.)] ... ... ... ... 55
Atlantic Oil Carriers, Ltd. v. British Petroleum Company, Ltd. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... 55
*Aurelian*, The —— [Adm.] ... ... ... ... ... ... ... 417

*Bannprince* and the *Juno*, The —— [Adm.] ... ... ... ... 399
Bartosik v. Cunard Steam-Ship Company, Ltd. —— [Q.B.] ... 461
Benedyk & Co., Ltd.:—I. & J. Hyman (Sales), Ltd. v. —— [Lambeth County Ct.] ... ... ... ... ... ... ... 601
Biddle, Sawyer & Co., Ltd. v. Walter Peters (trading as Burose & Peters) —— [Q.B. (Com. Ct.)] ... ... ... ... ... 339
Bird & Co. (London), Ltd.:—Juteweberei Emsdetten v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 368
Booth v. Ellerman's Wilson Line, Ltd. —— [Q.B.] ... ... ... 366
Bossom:—Regina Fur Company, Ltd. v. —— [Q.B.] ... ... ... 466
Boston Deep Sea Fishing and Ice Company, Ltd. v. H. Farnham (H.M. Inspector of Taxes) —— [Ch.] ... ... ... ... 238
Bowring Steamship Company, Ltd.:—McLean and Another v. —— [Q.B.] ... ... ... ... ... ... ... ... ... 38
British & Burmese Steam Navigation Company, Ltd.:—Smith v. —— [Q.B.] ... ... ... ... ... ... ... ... ... 36
British Imex Industries, Ltd.:—Malass v. —— [C.A.] ... ... 549
———— v. Midland Bank, Ltd. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... 591
British Petroleum Company, Ltd.:—Atlantic Oil Carriers, Ltd. v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... 55
British Transport Commission v. *Rattray Head* (Owners) —— [Adm.] ... ... ... ... ... ... ... ... ... 441
———— v. United States [U.S. Sup. Ct.] 281
Broughton v. Royal Mail Lines, Ltd. —— [Q.B.] ... ... ... 45
Brown, Jenkinson & Co., Ltd. v. Percy Dalton (London), Ltd. —— [C.A.] ... ... ... ... ... ... ... ... ... ... 1
Bryers v. Canadian Pacific Steamships, Ltd. —— [H.L.] ... ... 387
Burose & Peters. *See* Biddle, Sawyer & Co., Ltd. v. Walter Peters.

CONTENTS—*continued.*

PAGE

Canadian Pacific Steamships, Ltd.:—Bryers v. —— [H.L.] ... 387
*Cap Tarifa*, The —— [Sup. Ct. (N.S.W.)] ... ... ... ... 485
Chartered Insurance Institute v. City of London Corporation —— [Q.B. (Div. Ct.)] ... ... ... ... ... ... ... ... 29
Citati:—Universal Cargo Carriers Corporation v. —— [C.A.] ... 191
—— [Q.B. (Com. Ct.)] 311
City Lighterage Company, Ltd.:—Industrial and Mining Supplies Company, Ltd. v. —— [M. & C.L. Ct.] ... ... ... ... 48
City of London Corporation:—Chartered Insurance Institute v. —— [Q.B. (Div. Ct.)] ... ... ... ... ... ... ... 29
City Steam Fishing Company, Ltd. (Owners of the motor trawler *Hildina*) v. Robertson and Others —— [Adm.] ... ... ... 247
Clark v. London Scaling Company, Ltd. —— [Q.B.]... ... ... 274
Cunard Steam-Ship Company, Ltd.:—Bartošik v. —— [Q.B.] ... 461
Curtis & William (Africa), Ltd. v. E. G. Maas (trading as E. G. Maas & Co.) —— [Q.B. (Com. Ct.)] ... ... ... ... ... 223
Cyprus Textiles, Ltd.:—Kyprianou v. —— [Q.B. (Com. Ct.)] ... 353

Dalton (London), Ltd.:—Brown, Jenkinson & Co., Ltd. v. —— [C.A.] ... ... ... ... ... ... ... ... ... ... ... 1
Downing and Another:—Jackson v. —— [Q.B.] ... ... ... 134
Dowre Boat Company, Ltd., and Another:—Jackson v. —— [Q.B.] 134
*Duke of York*, The —— [U.S. Sup. Ct.] ... ... ... ... ... 281

Ellerman's Wilson Line, Ltd.:—Booth v. —— [Q.B.] ... ... 366
Everard & Sons, Ltd.:—London and Thames Haven Oil Wharves, Ltd. v. —— [Adm.] ... ... ... ... ... ... ... 20

Farnham:—Boston Deep Sea Fishing and Ice Company, Ltd. v. —— [Ch.] ... ... ... ... ... ... ... ... ... ... 238
*Fehmarn*, The —— [C.A.] ... ... ... ... ... ... ... 551
Fittock v. Shaw Savill & Albion Company, Ltd. —— [Q.B.] ... 149
Freeman v. Furness, Withy & Co., Ltd. —— [Q.B.] ... ... ... 586
Furness, Withy & Co., Ltd.:—Freeman v. —— [Q.B.] ... ... 586

Gale:—Simons v. —— [Sup. Ct. (N.S.W.)] ... ... ... ... 485
Glen Line, Ltd.:—Neal v. —— [Q.B.] ... ... ... ... 522
———— :—Saitch v. —— [Q.B.] ... ... ... ... 362
Gold v. Patman & Fotheringham, Ltd. —— [Q.B.] ... ... ... 319
Goldman & Sons, Ltd.:—Goulandris Brothers, Ltd. v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 207
Goulandris Brothers, Ltd. v. B. Goldman & Sons, Ltd. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 207
*Granli*, The —— [Adm.] ... ... ... ... ... ... ... 302
*Greathope*, The —— [Adm.] ... ... ... ... ... ... ... 197
Grimditch:—Newell v. —— [Q.B.] ... ... ... ... ... 457

CONTENTS—*continued.*

PAGE

H.M. Inspector of Taxes. *See* Boston Deep Sea Fishing and Ice Company, Ltd. v. H. Farnham.
Hamburg-Amerika Linie and Others:—Plata American Trading, Inc., and Another v. —— [New York Sup. Ct.] ... ... ... 347
Henville and Others:—Pugh v. —— [Q.B. (Div. Ct.)] ... ... 261
*Hildina*, The —— [Adm.] ... ... ... ... ... ... ... 247
Howard v. Port of London Authority —— [Q.B.] ... ... ... 141
*Hudson Bay*, The —— [Adm.] ... ... ... ... ... ... 506
Hyman (Sales), Ltd. v. A. Benedyk & Co., Ltd. —— [Lambeth County Ct.] ... ... ... ... ... ... ... ... 601

Ilahi and Razim Khan, *In re* —— [Q.B. (Div. Ct.)] ... ... ... 517
Industrial and Mining Supplies Company, Ltd. v. City Lighterage Company, Ltd. —— [M. & C.L. Ct.] ... ... ... ... ... 48
Island Tug & Barge, Ltd. v. The *Makedonia* (Owners) —— [Q.B.] 575

Jackson v. Dowre Boat Company, Ltd., and Another —— [Q.B.] 134
——— v. Vokins & Co., Ltd. —— [Q.B.] ... ... ... ... 451
*Janice*, The —— [M. & C.L. Ct.] ... ... ... ... ... ... 48
*Juno* and the *Bannprince*, The —— [Adm.] ... ... ... ... 399
Juteweberei Emsdetten v. Bird & Co. (London), Ltd. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 368

Khan and Fazal Ilahi, *In re* —— [Q.B. (Div. Ct.)] ... ... ... 517
Kyprianou v. Cyprus Textiles, Ltd. —— [Q.B. (Com. Ct.)] ... 353

Lancashire and Others:—Plata American Trading, Inc., and Another v. —— [New York Sup. Ct.] ... ... ... ... 347
*Latirus* (Owners), The:—Thames Steam Tug & Lighterage Company, Ltd. v. —— [Adm.] ... ... ... ... ... 557
Leeds Shipping Company, Ltd. v. Société Française Bunge —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 153
Lissenden Poultry. *See* Willmore and Another v. South Eastern Electricity Board.
Loescher & Partners:—Réalisations Industrielles et Commerciales Société Anonyme v. —— [Q.B.] ... ... ... ... ... 270
London and Thames Haven Oil Wharves, Ltd. v. F. T. Everard & Sons, Ltd. —— [Adm.] ... ... ... ... ... ... ... 20
London Scaling Company, Ltd.:—Clark v. —— [Q.B.] ... ... 274
London Transport Executive:—McAuley v. —— [C.A.] ... ... 500

Maas (trading as E. G. Maas & Co.):—Curtis & William (Africa), Ltd. v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... 223
Maas & Co. *See* Curtis & William (Africa), Ltd. v. Maas (trading as E. G. Maas & Co.).

CONTENTS—*continued.*

PAGE

McAuley v. London Transport Executive —— [C.A.] ... ... 500
McLean and Another v. Bowring Steamship Company, Ltd. —— [Q.B.] ... ... ... ... ... ... ... ... ... ... 38
*Makedonia* (Owners), The:—Island Tug & Barge, Ltd. v. —— [Q.B.] ... ... ... ... ... ... ... ... ... ... 575
Malass v. British Imex Industries, Ltd. —— [C.A.] ... ... ... 549
Manchester Ship Canal Company v. Minister of Transport and Civil Aviation and Upper Mersey Navigation Commissioners —— [Ch.] ... ... ... ... ... ... ... 539
Martin & Co., and Others:—Plata American Trading, Inc., and Another v. —— [New York Sup. Ct.] ... ... ... ... 347
Mersey Docks and Harbour Board: — *Regina* v. —— [Q.B. (Div. Ct.)] ... ... ... ... ... ... ... ... 127
Midland Bank, Ltd.:—British Imex Industries, Ltd. v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 591
Minister of Transport and Civil Aviation. *See Regina* v. Mersey Docks and Harbour Board.
———————————————— and Another:—
Manchester Ship Canal Company v. —— [Ch.] ... ... ... 539

*Naughton*, The —— [M. & C.L. Ct.] ... ... ... ... ... 277
Neal v. Glen Line, Ltd. —— [Q.B.] ... ... ... ... ... 522
Neirynck-Holvoet, S.A. v. J. Mackenzie Stewart & Co., Ltd. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 368
Newell v. Grimditch —— [Q.B.] ... ... ... ... ... ... 457
Nordhandel Gesellschaft Ruecker-Giehr & Co., and Another v. Lancashire and Others —— [New York Sup. Ct.] ... ... 347

Patman & Fotheringham, Ltd.:—Gold v. —— [Q.B.] ... ... 319
Peters:—Biddle, Sawyer & Co., Ltd. v. —— [Q.B. (Com. Ct.)] 339
Pike v. Trinity Wharf Company, Ltd. —— [Q.B.] ... ... ... 122
Plata American Trading, Inc., and Nordhandel Gesellschaft Ruecker-Giehr & Co. v. Lancashire; Hamburg-Amerika Linie; and Charles Martin & Co. —— [New York Sup. Ct.] ... ... 347
Port of London Authority:—Howard v. —— [Q.B.] ... ... 141
Pugh v. Henville and Others —— [Q.B. (Div. Ct.)] ... ... ... 261

*Rattray Head* (Owners):—British Transport Commission v. —— [Adm.] ... ... ... ... ... ... ... ... ... ... 441
Réalisations Industrielles et Commerciales Société Anonyme v. Loescher & Partners —— [Q.B.] ... ... ... ... ... 270
Regazzoni v. K.C. Sethia (1944), Ltd. —— [H.L.] ... ... ... 289
*Regina* v. Mersey Docks and Harbour Board (*Ex parte* Minister of Transport and Civil Aviation) —— [Q.B. (Div. Ct.)] ... 127
Regina Fur Company, Ltd. v. Bossom —— [Q.B.] ... ... ... 466
Robertson and Others:—City Steam Fishing Company, Ltd. v. —— [Adm.] ... ... ... ... ... ... ... ... ... 247
Royal Mail Lines, Ltd.:—Broughton v. —— [Q.B.] ... ... ... 45

CONTENTS—*continued.*

PAGE

Saitch v. Glen Line, Ltd. —— [Q.B.] ... ... ... ... ... 362
Sethia (1944), Ltd :—Regazzoni v. —— [H.L.] ... ... ... ... 289
Shaw Savill & Albion Company, Ltd. :—Fittock v. —— [Q.B.] ... 149
Silvertown Services, Ltd., and Another :—Smith v. —— [Q.B.] 569
Simons v. Gale —— [Sup. Ct. (N.S.W.)] ... ... ... ... 485
Smith v. British & Burmese Steam Navigation Company, Ltd. —— [Q.B.] ... ... ... ... ... ... ... ... ... ... 36
——— v. Silvertown Services, Ltd., and Tate & Lyle, Ltd. —— [Q.B.] ... ... ... ... ... ... ... ... ... ... 569
Sociedad Financiera de Bienes Raices, S.A. :—Agrimpex Hungarian Trading Company for Agricultural Products v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... 423
Société Française Bunge :—Leeds Shipping Company, Ltd. v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... 153
Société Générale de Compensation :—Sudan Import & Export Company (Khartoum), Ltd. v. —— [Q.B. (Com. Ct.)] ... ... 528
South Eastern Electricity Board :—Willmore and Another v. —— [Q.B.] ... ... ... ... ... ... ... ... ... ... 375
Stewart & Co., Ltd. :—Neirynck-Holvoet, S.A. v. —— [Q.B. (Com. Ct.)] ... ... ... ... ... ... ... ... ... 368
Sudan Import & Export Company (Khartoum), Ltd. v. Société Générale de Compensation —— [Q.B. (Com. Ct.)] ... ... 528
Swan, Hunter, and Wigham Richardson, Ltd :—Tate v. —— [C.A.] 495

Tate v. Swan, Hunter, and Wigham Richardson, Ltd. —— [C.A.] 495
Tate & Lyle, Ltd., and Another :—Smith v. —— [Q.B.] ... ... 569
Thames Steam Tug & Lighterage Company, Ltd. v. The *Latirus* (Owners) —— [Adm.] ... ... ... ... ... ... ... 557
Trinity Wharf Company, Ltd. :—Pike v. —— [Q.B.] ... 122

United States :—British Transport Commission v. —— [U.S. Sup. Ct.] ... ... ... ... ... ... ... ... 281
Universal Cargo Carriers Corporation v. Pedro Citati —— [C.A.] 191
——————————————— [Q.B. (Com. Ct.)] 311
Upper Mersey Navigation Commissioners and Another :—Manchester Ship Canal Company v. —— [Ch.] ... ... ... 539

Vokins & Co., Ltd. :—Jackson v. —— [Q.B.] ... ... ... ... 451

Willmore and Another (trading as Lissenden Poultry) v. South Eastern Electricity Board —— [Q.B.] ... ... ... ... 375

LLOYD'S LIST
LAW REPORTS

Editor : E. S. MATHERS
Of the Middle Temple, Barrister-at-Law

[1957] VOL. 2] FRIDAY, SEPTEMBER 27, 1957. [PART 1

## COURT OF APPEAL.

May 16, 17, 20, 1957.

BROWN, JENKINSON & CO., LTD. v. PERCY DALTON (LONDON), LTD.

Before Lord EVERSHED (Master of the Rolls), Lord Justice MORRIS and Lord Justice PEARCE.

**Bill of lading—Shipment "in apparent good order and condition" — Cargo admittedly shipped in damaged condition—Issue of clean bill against shippers' letter of indemnity — Enforceability — Illegality — Commercial practice.**

Sale of barrels of orange juice by defendants to Dutch firm—Resale by buyers to German firm—Consignment shipped by defendants in motor vessel *Titania* from London to Hamburg — Shippers, shipowners and Dutch buyers aware that barrels were old, frail and leaking on shipment—Acknowledgment by shipowners in bill of lading that goods were received "in apparent good order and condition," such bill being issued against shippers' letter of indemnity admitting the condition of the goods and providing (*inter alia*):

> We [the shippers] do hereby irrevocably authorize the said master, vessel, the owners and their representatives, in the event of third parties bringing forward any claims against them, to make any arrangements with said parties for our account, which said master, shipowners or representatives may deem advisable.

Shipowners estopped to deny damaged condition of shipment—Claim brought by consignees for loss in transit paid by shipowners' agents (plaintiffs)—Claim by plaintiffs to be indemnified by defendants under letter of indemnity — Plea by defendants (1) that letter was issued in pursuance of a conspiracy between themselves and shipowners to misrepresent the condition of the barrels and therefore was unenforceable; and (2) that Dutch buyers, being aware of the true condition of the barrels on shipment, had no right of recovery against plaintiffs based on the issue of a clean bill of lading, and accordingly that there was no obligation on plaintiffs to settle the claim made by the consignees—Evidence of commercial practice concerning the issue of letters of indemnity.

———*Held*, by His Honour Judge L. K. A. BLOCK, (1) that although the parties had conspired to make a false statement on the bill of lading, the tort of deceit was not complete as neither of the parties had sustained any loss as a result of such conspiracy; and that accordingly the indemnity was not illegal and was enforceable against defendants; (2) that plaintiffs had full authority to settle and were in the circumstances justified in meeting a claim which on the bill of lading was almost unanswerable, and that accordingly they were entitled to reimbursement by defendants under their letter of indemnity.

———Appeal by defendants.

———*Held*, by C.A. (MORRIS and PEARCE, L.JJ., Lord EVERSHED, M.R., *dissenting*), that plaintiffs made a representation which they knew to be false and which they intended should be relied upon by persons who received the bill of lading; that, accordingly, all the elements of the tort of deceit were present; and that, therefore, a promise to indemnify plaintiffs against any loss resulting to them from making the representation was unenforceable.

———Appeal by defendants allowed.

Per MORRIS, L.J. (at p. 9): There may perhaps be some circumstances in which indemnities can properly be given. . . . Each case must depend upon its circumstances. But even if it could be shown that there existed to any extent a practice of knowingly issuing clean bills when claused bills should have been issued, no validating effect for any particular transaction could in consequence result.

Per PEARCE, L.J. (at p. 13): In the last 20 years it has become customary, in the short-sea trade in particular, for

shipowners to give a clean bill of lading against an indemnity from the shippers in certain cases where there is a *bona fide* dispute as to the condition or packing of the goods. . . .

This practice is convenient where it is used with conscience and circumspection, but it has perils if it is used with laxity and recklessness. It is not enough that the banks or the purchasers who have been misled by clean bills of lading may have recourse at law against the shipowner. They are intending to buy goods, not law suits. . . .

The evidence seemed to show that in general the practice is kept within reasonable limits. In trivial matters and in cases of *bona fide* dispute where the difficulty of ascertaining the correct state of affairs is out of proportion to its importance, no doubt the practice is useful.

Per Lord EVERSHED, M.R. (*dissenting*) (at p. 18): I am not satisfied that we in this Court should hold that the contract of indemnity made between plaintiffs and defendants was a bargain involving, as the plaintiffs knew and intended or should be taken to have known and intended, a fraudulent misrepresentation on the defendants' part and therefore is a contract unenforceable by the plaintiffs. Thoughtless, misguided and irresponsible the plaintiffs may have been; but I am not satisfied on my part, on the evidence and what I take to have been the views of the learned Judge, that it would be just for this Court to condemn them as fraudulent and dishonest.

But even if we should conclude that the representation was made with such recklessness as to amount, in law, to the same thing as a representation made with the deliberate intention of deceiving, still I am not satisfied that it would be right to hold, or that any authority compels us to hold, that the proved circumstances were such that it would be contrary to public policy, *contra bonos mores*, to allow the plaintiffs to recover upon the contract of indemnity from the defendants.

---

The following cases were referred to:

Alexander v. Rayson, [1936] 1 K.B. 169;
Berg v. Sadler and Moore, [1937] 2 K.B. 158;
Boissevain v. Weil, (C.A.) [1949] 1 All E.R. 146; (H.L.) [1950] 1 All E.R. 728;
Brandt and Another v. Liverpool, Brazil and River Plate Steam Navigation Company, Ltd., [1924] 1 K.B. 575; (1923) 17 Ll.L.Rep. 142;
Compania Naviera Vasconzada v. Churchill & Sim, [1906] 1 K.B. 237;
Crofter Hand Woven Harris Tweed Company, Ltd., and Others v. Veitch and Another, [1942] A.C. 435;
Dent and Others v. Glen Line, Ltd., (1940) 67 Ll.L.Rep. 72;
Holman v. Johnson, (1775) 1 Cowp. 341;
Pearce and Another v. Brooks, (1866) L.R. 1 Ex. 213;
Scott v. Brown, Doering, McNab & Co., [1892] 2 Q.B. 724;
Shackell v. Rosier, (1836) 2 Bing. (N.C.) 634;
Silver v. Ocean Steamship Company, Ltd., [1930] 1 K.B. 416; (1929) 35 Ll.L.Rep. 49;
United Baltic Corporation, Ltd. v. Dundee, Perth & London Shipping Company, Ltd., (1928) 32 Ll.L.Rep. 272.

---

This was an appeal by defendants, Percy Dalton (London), Ltd., importers and exporters, of London, E., from a judgment of his Honour Judge L. K. A. Block ([1957] 1 Lloyd's Rep. 31), in the Mayor's and City of London Court, awarding £147 to plaintiffs, Brown, Jenkinson & Co., Ltd., shipbrokers, of London, E.C., upon their claim to enforce a letter of indemnity given by defendants concerning a cargo of 100 barrels of concentrated orange juice shipped at London on Apr. 4, 1956, on board the German motor vessel *Titania* for carriage to Hamburg. The consignment was shipped for a firm known as VIPA Internationale Handelsondernemming, of Rotterdam, and the *Titania*, which was owned by the Hamburg-London Linie, for whom plaintiffs were agents, was nominated to take the consignment. When the cargo was being shipped, it was noticed that the barrels were old and that some were leaking, and Brown, Jenkinson & Co. indicated that they would have to clause the bill of lading accordingly, but they agreed not to do so in exchange for a letter of indemnity. The receivers of the cargo were a Hamburg firm to whom it had been sold by VIPA. When delivery was effected, leakage was found to have occurred and a claim was made against the underwriters, and eventually the shipowners paid an equivalent of 1542 Dutch guilders.

Plaintiffs pleaded that the barrels were in an old and/or frail and/or leaky condition, but in consideration for the issue notwithstanding of a clean bill of lading defendants agreed (*inter alia*) to indemnify the shipowners against the consequences of a clean bill of lading

having been so issued. The condition of the barrels resulted in short delivery. In consequence of the clean bill of lading having been issued, the shipowners had to pay compensation to the receivers of the orange juice, and/or to the underwriters subrogated to their rights in respect thereof, amounting to £147.

Plaintiffs said that the shipowners had deemed it advisable in all the circumstances to pay such compensation as they were expressly authorized by the defendants under their letter of indemnity so to do; and the shipowners had by agreement assigned the benefit of the indemnity and the right to enforce it to the plaintiffs.

The defendants' case was that the letter of indemnity was given by them in pursuance of a conspiracy between themselves and the shipowners (by their agents the plaintiffs) or by the master of the ship to misrepresent the condition of the barrels to any subsequent holder of the bills of lading. They further said that their promise to indemnify the shipowners was given in consideration of the shipowners fraudulently misrepresenting the condition of the goods and that in the circumstances the indemnity was part of a contract which was illegal and/or contrary to public policy. The defendants also said that the purpose of the indemnity, as the shipowners well knew, was that the shipowners should fraudulently misrepresent the condition of the barrels and that the contract of indemnity thereby became tainted with illegality and/or was contrary to public policy. Further, defendants said that the purchasers of the orange juice, viz., VIPA Internationale Handelsondernemning, at all material times well knew of the true conditions of the barrels and had expressly requested the defendants to ensure that the goods should be delivered under a clean bill of lading, as otherwise VIPA were unable to obtain the necessary finance for the purchase. As these facts were known by the shipowners and/or by their agents, the plaintiffs, before the payment of compensation, the underwriters were not entitled to receive compensation, being in no better position than VIPA.

By their reply, plaintiffs pointed out that the receivers who took delivery under the bills of lading were Julius Mertens, of Hamburg. They also contended that such letters of indemnity were valid and/or so recognized by persons engaged in the trade or business of shipping cargoes.

His Honour held that the indemnity was enforceable against defendants, who now appealed, it being contended that as the consideration for the giving of the indemnity was illegal the indemnity could not be enforced, and that the issuing of bills of lading known to be false was contrary to public policy.

Mr. T. G. Roche, Q.C., and Mr. Michael Eastham (instructed by Messrs. Carters) appeared for appellants; Mr. Eustace Roskill, Q.C., and Mr. B. J. Brooke-Smith (instructed by Messrs. William A. Crump & Son) represented respondents.

After arguments which are sufficiently set out in their Lordships' judgments below, judgment was reserved.

---

Wednesday, July 3, 1957.

---

**JUDGMENT.**

**Lord EVERSHED, M.R.:** I will ask Lord Justice Morris to deliver the first judgment.

**Lord Justice MORRIS:** The question which is raised in this appeal is whether on the facts of this particular case an agreement to indemnify against the consequences of issuing a clean bill of lading is enforceable. The case is one in which the issuing of a clean bill of lading was not justified having regard to the condition of the goods which were shipped.

The plaintiffs act as loading brokers and chartering agents for certain shipping lines, including the Hamburg-London Linie. The defendants had some barrels of concentrated orange juice which they wished to ship to Hamburg on the motor vessel *Titania*, one of the ships of that line. They communicated with the plaintiffs, and, following a telephone conversation, they wrote to plaintiffs on Mar. 28, 1956. The material parts of that letter are as follows:

> We would confirm our telephone conversation of to-day and detail hereunder specification and our requirements:—
>
> 1. Consignment: 100 barrels concentrated orange juice—marked "V."