

LLOYD'S LIST LAW REPORTS

Editor :

E. S. MATHERS

of the Middle Temple, Barrister-at-Law

Assistant Editor :

G. M. HALL

of the Middle Temple, Barrister-at-Law

1965

Volume 2

PRINTED AND PUBLISHED BY LLOYD'S
AT LLOYD'S, LONDON, ENGLAND
1966

CASES CITED

	PAGE
Abraham v. Bullock	(1902) 86 L.T. 796 63
<i>Acrux</i> , The	[1965] 1 Lloyd's Rep. 565; [1965] 2 All E.R. 323 183, 189
Adler v. Dickson and Another	[1954] 2 Lloyd's Rep. 267; [1954] 3 All E.R. 397 449
Aitchison v. Page Motors, Ltd.	(1935) 52 T.L.R. 137 63
Akbar Khan v. Attar Singh	[1936] 2 All E.R. 545 149
<i>Alenquer</i> ; the <i>Rene</i> , The	[1955] 1 Lloyd's Rep. 101; [1955] 1 W.L.R. 263 454
<i>Alnwick</i> , The	[1965] 1 Lloyd's Rep. 69 134
Ames v. Milward	(1818) 8 Taunt. 637 496
Artistic Colour Printing Company, <i>In re</i>	(1880) 14 Ch.D. 502 538
Attorney-General v. Kirsten	(1923) 16 Ll.L.Rep. 43; [1923] J.P. 151 325
Attorney-General for New South Wales v. Perpetual Trustee Company, Ltd., and Others	[1955] A.C. 457 414
Australian Direct Steam Navigation Company, <i>In re</i>	(1875) L.R. 20 Eq. 325 538
Bank of Chettinad, Ltd., of Colombo v. Commissioner of Income Tax, Colombo	[1948] A.C. 378 195
<i>Barcore</i> , The	[1896] P. 294 37
Barker and Another v. M'Andrew	(1865) 18 C.B. (N.S.) 759 546
Barwick v. English Joint Stock Bank	(1867) L.R. 2 Ex. 259 63
Bede Steam Shipping Company, Ltd. v. Bunge y Born	(1927) 27 Ll.L.Rep. 410 353
Best v. Samuel Fox & Co., Ltd.	[1952] A.C. 716 414
Blower v. Great Western Railway Company	(1872) L.R. 7 C.P. 655 37
<i>Bosworth</i> (No. 1), The	[1959] 2 Lloyd's Rep. 511 454
<i>Bosworth</i> (No. 2), The	[1959] 2 Lloyd's Rep. 537; [1961] 1 W.L.R. 312 128
Bottomgate Industrial Co-operative Society, <i>Re</i>	(1891) 65 L.T. 712 195
Bowes v. Shand	(1877) 2 App. Cas. 455 171
Braithwaite v. Foreign Hardwood Company	[1905] 2 K.B. 543 171
<i>British Aviator</i> , The	[1965] 1 Lloyd's Rep. 271 479
British Mutual Banking Company, Ltd. v. Charnwood Forest Railway Company	(1887) 18 Q.B.D. 714 63
Bruce, Ltd. v. J. Strong	[1951] 2 K.B. 447; [1951] 2 Lloyd's Rep. 5 353
Brys & Gylsen, Ltd. v. J. & J. Drysdale & Co.	(1920) 4 Ll.L.Rep. 24 204
Building and Civil Engineering Holidays Scheme Management, Ltd. v. Post Office	[1965] 2 W.L.R. 72 63
Burns, Philp & Co., Ltd. v. Nelson & Robertson Proprietary, Ltd.	[1957] 1 Lloyd's Rep. 267 134
<i>Cachapool</i> , The	(1882) 7 P.D. 217 479
<i>Calypso</i> , The	(1828) 2 Hagg. 209 454
Canadian Transport Company, Ltd. v. Court Line, Ltd.	[1940] A.C. 934; (1940) 67 Ll.L.Rep. 161 204

CASES CITED—*continued*

PAGE

Car and Universal Finance Company, Ltd. v. Caldwell	[1964] 2 W.L.R. 600	...	...	229
Carnill v. Rowland	[1953] 1 Lloyd's Rep. 99; [1953] 1 W.L.R. 380	...	...	121
Carpenter v. W. Lusty & Sons, Ltd.	[1957] 1 Lloyd's Rep. 16	...	...	115
Cattle v. Stockton Waterworks Company	(1875) L.R. 10 Q.B. 453	...	...	414
Caxton Publishing Company, Ltd. v. Sutherland Publishing Company	[1939] A.C. 178	...	...	63
Central Motors (Glasgow), Ltd. v. Cessnock Garage & Motor Company	[1925] Sess. Cas. 796	...	...	63
Chapelton v. Barry Urban District Council	[1940] 1 K.B. 532	...	...	218
<i>Charles Adolphe</i> , The	(1856) Swab. 153	...	...	454
Cheshire v. Bailey	[1905] 1 K.B. 237	...	...	63
<i>City of Cambridge</i> , The	(1874) L.R. 5 P.C. 451	...	...	479
Clark <i>et al.</i> v. Barnwell <i>et al.</i>	(1851) 12 How. 272	...	...	37
<i>Clymene</i> , The	[1897] P. 295	...	...	479
Cockshott and Another v. Bennett and Another	(1788) 2 T.R. 763	...	...	149
Coggs v. Bernard	(1703) 2 Ld. Raym. 909	...	...	63
Coldman v. Hill	[1919] 1 K.B. 443	...	...	63
Coleman v. Riches	(1855) 16 C.B. 104	...	...	63
Commissioners of the State Savings Bank of Victoria v. Permewan, Wright & Co., Ltd.	[1915] 19 C.L.R. 457	...	...	195
Connell v. Hellyer Brothers, Ltd.	[1963] 2 Lloyd's Rep. 249	...	...	299
Corbett & Miller v. Barham	[1965] 1 W.L.R. 187	...	...	115
Cosgrove v. Horsfall	(1945) 175 L.T. 334	...	...	449
Court Line, Ltd. v. Canadian Transport Company, Ltd.	(1940) 67 Ll.L.Rep. 161; [1940] A.C. 934	...	...	204
Dansey v. Richardson	(1854) 3 E. & B. 144	...	...	63
Dawkes v. Lord De Lorane	(1771) 3 Wils. 207; (1771) 95 E.R. 1015	...	...	149
de Parrell v. Walker	(1932) 49 T.L.R. 37	...	...	63
Deyong v. Shenburn	[1946] 1 K.B. 227	...	...	63
District Savings Bank, Ltd., <i>In re</i>	(1861) 3 De G. F. & J. 335	...	...	195
Donoghue v. Stevenson	[1932] A.C. 562	...	...	414
Edwards v. West Herts Group Hospital Management Committee	[1957] 1 W.L.R. 415	...	...	63
Elder, Dempster & Co. v. C. G. Dunn & Co., Ltd.	(1909) 15 Com. Cas. 49	...	...	353
Elder, Dempster & Co., Ltd., and Others v. Paterson, Zochonis & Co., Ltd.	[1924] A.C. 522; (1924) 18 Ll.L.Rep. 319	...	...	63, 449
Electrolux, Ltd. v. Electrix, Ltd., and Another	(1953) 71 R.P.C. 23	...	...	195
Emanuel and Others v. Symon	[1908] 1 K.B. 302	...	...	313
<i>Erato</i> , The	(1888) 13 P.D. 163	...	...	454
Finucane v. Small	(1795) 1 Esp. 315	...	...	63
<i>Francis and Eliza</i> , The	(1816) 2 Dods. 115	...	...	454
Gallivan v. Warman	[1930] W.N. 96	...	...	272
Giblin v. McMullen	(1868) L.R. 2 P.C. 317	...	...	63
Gillespie Bros. & Co. v. Thompson Bros. & Co.	(1922) 13 Ll.L.Rep. 519	...	...	496
<i>Glendarroch</i> , The	[1894] P. 226	...	...	37

CASES CITED—*continued*

		PAGE
Glynn and Others v. Margetson & Co. and Others	[1893] A.C. 351	546
Gosse Millerd v. Canadian Mercantile Marine, Ltd.	[1927] 2 K.B. 432; (1927) 28 Ll.L.Rep. 88	37
Gosse Millerd, Ltd. v. Canadian Government Merchant Marine, Ltd.	[1929] A.C. 223; (1928) 32 Ll.L.Rep. 91	204
Graham v. C. E. Heinke & Co., Ltd.	[1959] 1 Q.B. 225	128
Greenshields, Cowie & Co. v. Stephens & Sons, Ltd.	[1908] A.C. 431	37
Grein v. Imperial Airways, Ltd.	[1937] 1 K.B. 50; (1936) 55 Ll.L.Rep. 318	363
Hadley and Another v. Baxendale and Others	(1854) 9 Ex. 341	425
Hanna, The	(1866) L.R. 1 A. & E. 283	479
Hansson v. Hamel and Horley, Ltd.	[1922] 2 A.C. 36	171
Hedley Byrne & Co., Ltd. v. Heller & Partners, Ltd.	[1964] A.C. 465; [1963] 1 Lloyd's Rep. 485	414, 496
Hern v. Nichols	(1701) 1 Salk. 289	63
Holme v. Brunskill	(1877) 3 Q.B.D. 495	389
Hookway & Co., Ltd. v. W. H. Hooper & Co.	(1950) 84 Ll.L.Rep. 443	353
Hopkins v. Rees and Kirby, Ltd.	[1959] 1 W.L.R. 740	272
Houldsworth v. City of Glasgow Bank	(1880) 5 App. Cas. 317	63
Ironmonger & Co. v. Dyne	(1928) 44 T.L.R. 497	229
Istros (Owners) v. F. W. Dahlstroem & Co.	[1931] 1 K.B. 247; (1930) 38 Ll.L.Rep. 84	546
Jones v. Gordon	(1877) 2 App. Cas. 616	149
Kahler v. Midland Bank, Ltd.	[1950] A.C. 24	63
Krüger & Co., Ltd. v. Moel Tryvan Ship Company, Ltd.	[1907] A.C. 272	353
Kwei Tek Chao and Others (trading as Zung Fu Co.) v. British Traders and Shippers, Ltd.	[1954] 2 Q.B. 459; [1954] 1 Lloyd's Rep. 16	171
La Société Anonyme de Remorquage à Hélice v. Bennetts	[1911] 1 K.B. 243	414
Lancashire Cotton Spinning Company, <i>In re</i>	(1887) 35 Ch.D. 656	538
Letang v. Cooper	[1964] 2 Lloyd's Rep. 339; [1964] 2 All E.R. 929	128
Lion, The	(1869) L.R. 2 P.C. 525	479
Lister v. Lancashire and Yorkshire Railway Company	[1903] 1 K.B. 878	37
Lloyd v. Grace, Smith & Co.	[1912] A.C. 716	63
London and North Western and Great Western Joint Railway Companies v. J. H. Billington, Ltd.	[1899] A.C. 79	353
London and North Western Railway Company v. Jones	[1915] 2 K.B. 35	353
M.S.C. Panther and the Ericbank	[1957] P. 143; [1957] 1 Lloyd's Rep. 57	254
M'Intosh v. Slade, Slade, and Voy	(1827) 6 B. & C. 657	479
Macpherson Train & Co., Ltd. v. J. Milhem & Sons	[1955] 1 Lloyd's Rep. 597; (C.A.) [1955] 2 Lloyd's Rep. 59	496

CASES CITED—*continued*

PAGE

Mears v. London & South Western Railway Company	(1862) 11 C.B.N.S. 850	63
Meux v. Great Eastern Railway Company ...	[1895] 2 Q.B. 387	63
Midland Silicones, Ltd. v. Scruttons, Ltd. ...	[1962] A.C. 446; [1961] 2 Lloyd's Rep. 365	449
Milburn & Co. v. Jamaica Fruit Importing and Trading Company of London	[1900] 2 Q.B. 540	546
Ministry of Food v. Australian Wheat Board	[1952] 1 Lloyd's Rep. 297	204
Mintz v. Silverton	(1920) 36 T.L.R. 399	63
Moore v. Canadian Pacific Steamships, Ltd. ...	(1944) 78 Ll.L.Rep. 120; [1945] 1 All E.R. 128	378
Morrison Steamship Company, Ltd. v. <i>Greystoke Castle</i> (Cargo Owners)	[1947] A.C. 265; (1946) 80 Ll.L.Rep. 55	414
Norddeutscher Lloyd and Others v. <i>Cairnhill</i> , Cargo and Freight	(1920) 5 Ll.L.Rep. 386	454
Nottebohm & Co., and Others v. Richter and Others	(1886) 18 Q.B.D. 63	546
Nugent v. Smith	(1876) 1 C.P.D. 423	37
Olds Discount Company, Ltd. v. John Playfair, Ltd.	[1938] 3 All E.R. 275	195
Palser v. Grinling	[1948] A.C. 291	195
<i>Panther and the Ericbank</i> , The	[1957] P. 143; [1957] 1 Lloyd's Rep. 57	254
<i>Parita</i> , The	[1964] 1 Lloyd's Rep. 199	183
Parker v. South Eastern Railway Company ...	(1877) 2 C.P.D. 416	218
Pedley v. Cambridge Newspapers, Ltd. ...	[1964] 1 W.L.R. 988	128
<i>Peter Benoit</i> , The	(1915) 114 L.T. 147; (1915) 13 Asp. Mar. Cas. 203	479
<i>Peter der Grosse</i> , The	(1875) 1 P.D. 414	564
Petrofina, S.A., of Brussels v. Compagnia Italiana Trasporto Olii Minerali of Genoa	(1937) 57 Ll.L.Rep. 247; (1937) 42 Com. Cas. 286	363
Philippson and Others v. Imperial Airways, Ltd.	[1939] A.C. 332; (1939) 63 Ll.L. Rep. 119	363
Pinnock Brothers v. Lewis and Peat, Ltd. ...	[1923] 1 K.B. 690; (1923) 14 Ll.L. Rep. 277	353
Piracy, <i>Jure Gentium</i> , <i>In re</i>	[1934] A.C. 586; (1934) 49 Ll.L.Rep. 411	454
Premor, Ltd. v. Shaw Brothers	[1964] 1 W.L.R. 978	195
<i>Prins Bernhard</i> , The	[1963] 2 Lloyd's Rep. 236	350
Queen (The) v. Levy Bros. Company, Ltd. ...	[1961] 26 D.L.R. (2d) 760	63
Raymond & Reid v. Granger	[1952] 2 All E.R. 152	353
Reeve v. Palmer	(1858) 5 C.B.N.S. 584	63
<i>Regina</i> v. Industrial Disputes Tribunal. <i>Ex parte</i> East Anglian Trustee Savings Bank	[1954] 1 W.L.R. 1093	195
<i>Rene</i> ; the <i>Alenquer</i> , The	[1955] 1 Lloyd's Rep. 101; [1955] 1 W.L.R. 263	454
Republic of Bolivia v. Indemnity Mutual Marine Assurance Company, Ltd.	(1909) 1 K.B. 785	454
<i>Rigborgs Minde</i> , The	(1883) 8 P.D. 132	479

CASES CITED—continued

PAGE

Riverstone Meat Company Pty., Ltd. v. Lancashire Shipping Company, Ltd.	[1961] A.C. 807; [1961] 1 Lloyd's Rep. 57	363, 546
Robertson and Thomson v. French	(1803) 4 East 130	546
Robins v. Goddard	[1905] 1 K.B. 294	425
Rodrigues v. Melhuish, Jones and Others	(1854) 24 L.J. (Ex.) 26	479
Ruben and Another v. Great Fingall Consolidated and Others	[1906] A.C. 439	63
Russell v. Phillips	(1850) 117 E.R. 342; (1850) 14 Q.B. 891	149
<i>St. Chad, The</i>	[1965] 1 Lloyd's Rep. 107; (C.A.) [1965] 2 Lloyd's Rep. 1	299
Sanderson v. Collins	[1904] 1 K.B. 628	63
Scarborough and Wife v. Cosgrove	[1905] 2 K.B. 805	63
Schibsby v. Westenholz and Others	(1870) L.R. 6 Q.B. 155	313
Scruttons, Ltd. v. Midland Silicones, Ltd.	[1961] 1 Q.B. 106; [1960] 1 Lloyd's Rep. 571; (H.L.) [1962] A.C. 446; [1961] 2 Lloyd's Rep. 365 63, 363	363
Seth v. British Overseas Airways Corporation	[1964] 1 Lloyd's Rep. 268	363
Sharpe & Co., Ltd. v. Nosawa & Co.	[1917] 2 K.B. 814	229
Sharps Commercials, Ltd. v. Gas Turbines, Ltd.	[1956] N.Z.L.R. 819	313
Sherry, <i>In re</i> , London and County Banking Company v. Terry	(1884) 25 Ch.D. 692	389
Shields' Estate, <i>In re</i>	[1901] 1 I.R. 172	195
Sigalas Sons v. Man Mohan Singh & Co.	[1958] 2 Lloyd's Rep. 298	353
Silver v. Ocean Steamship Company, Ltd.	[1930] 1 K.B. 416; (1929) 35 Ll.L.Rep. 49	204
Simpson & Co. v. Thomson, Burrell	(1877) 3 App. Cas. 279	414
Southcote's case	(1601) 4 Co. Rep. 83b	63
Spittle v. Thames Grit & Aggregates, Ltd.	[1937] 4 All E.R. 101	115
Stansbie v. Troman	[1948] 2 K.B. 48	63
<i>Star of the Isles, The</i>	(1938) 62 Ll.L.Rep. 139	454
Storey v. Ashton	(1869) L.R. 4 Q.B. 476	63
Sweetway Sanitary Cleansers, Ltd. v. Bradley	[1962] 2 Q.B. 108	115
Swire and Others v. Francis	(1877) 3 App. Cas. 106	63
Tappenden (trading as English & American Autos) v. Artus and Another	[1964] 2 Q.B. 185; [1963] 3 All E.R. 213	63
Taylor v. Allon	[1965] 1 Lloyd's Rep. 155; [1965] 1 All E.R. 557	121
Tersons, Ltd. v. Stevenage Development Corporation	[1965] 1 Q.B. 37; [1963] 2 Lloyd's Rep. 333	496
The Coupé Company v. Maddick	[1891] 2 Q.B. 413	63
Thornton v. Boland	(1824) 2 Bing. 219	479
Travers v. Holley	[1953] P. 246	313
<i>Trelawney, The</i>	(1802) 4 Rob. 223	454
Trepca Mines, Ltd., <i>In re</i>	[1960] 1 W.L.R. 1273	313
Ultzen v. Nicols	[1894] 1 Q.B. 92	63
Underwood, Ltd. v. Barclays Bank	[1924] 1 K.B. 775	218
United Africa Company, Ltd. v. Saka Owoade	[1955] A.C. 130; [1954] 2 Lloyd's Rep. 607	63
Universal Cargo Carriers Corporation v. Citati (No. 2)	[1958] 2 Q.B. 254; [1958] 2 Lloyd's Rep. 17	204

CASES CITED—*continued*

PAGE

Universal Stock Exchange v. Stevens	(1892) 66 L.T. 612	229
Upper Egypt Produce Exporters and Others v. <i>Santamana</i>	(1923) 14 Ll.L.Rep. 159	108
Uxbridge Permanent Benefit Building Society v. Pickard	[1939] 2 K.B. 248	63
<i>Velox</i> , The	[1955] 1 Lloyd's Rep. 376	254
Victoria Laundry (Windsor), Ltd. v. Newman Industries, Ltd.	[1949] 2 K.B. 528	425
Ward v. National Bank of New Zealand, Ltd.	(1883) 8 App. Cas. 755	389
Watney, Combe, Reid & Co., Ltd. v. E. M. Dower & Co., Ltd.	[1956] 2 Lloyd's Rep. 325	353
Westfal-Larsen & Co., A/S v. Colonial Sugar Refining Company, Ltd.	[1960] 2 Lloyd's Rep. 206	546
Westminster Bank v. Imperial Airways, Ltd.	(1936) 42 Com. Cas. 1; (1936) 55 Ll.L.Rep. 242	363
Westminster Bank, Ltd. v. Zang	[1965] 1 Lloyd's Rep. 183; [1965] 2 W.L.R. 824	218
White & Son (Hull), Ltd. v. <i>Hobsons Bay</i> (Owners)	(1933) 47 Ll.L.Rep. 207	204
Wilkie v. London Passenger Transport Board	[1947] 1 All E.R. 258	449
Williams v. Wallis and Cox	[1914] 2 K.B. 478	496
Wilson v. Darling Island Stevedoring and Lighterage Company, Ltd.	[1956] 1 Lloyd's Rep. 346; (1956) 95 C.L.R. 43	63
Wilsons & Clyde Coal Company, Ltd. v. English	[1938] A.C. 57	546
Wimpey & Co., Ltd. v. John	[1951] 1 All E.R. 307	115
Windsor Rural District Council v. Otterway & Try, Ltd.	[1954] 1 W.L.R. 1494	425
Winkfield, The	[1902] P. 42	63

STATUTES CONSIDERED.

	PAGE
UNITED KINGDOM—	
ADMINISTRATION OF JUSTICE ACT, 1956	
Sect. 1 (1)	183, 189
Sect. 3 (4)	388
ARBITRATION ACT, 1950	
Sect. 27	353
Sect. 23 (3)	447
BILLS OF EXCHANGE ACT, 1882	
Sect. 17 (2)	149
Sect. 19	149
Sect. 29 (2)	149
CARRIAGE BY AIR ACT, 1932	
Art. 8 (q)	363
Art. 9	363
Art. 22 (2)	363
CARRIAGE OF GOODS BY SEA ACT, 1924	
Art. III, r. 2	37
Art. IV, r. 2	37
COMPANIES ACT, 1948	
Sect. 228 (1)	538
Sect. 231	538
CUSTOMS AND EXCISE ACT, 1952	
Sect. 279	325
Sect. 240	325
FATAL ACCIDENTS ACTS	134
FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT, 1933	
Sect. 4 (2)	313
LAW REFORM (MISCELLANEOUS PROVISIONS) ACT, 1934	134
LIVERPOOL CORPORATION ACT, 1921	
Sect. 249	297
Sect. 256	297
MARITIME CONVENTIONS ACT, 1911	
Sect. 1	254
Sect. 8	134
MERCHANT SHIPPING ACT, 1906	
Sect. 30	378
Sect. 49	378
MONEY-LENDERS ACT, 1900	
Sect. 6	195
OCCUPIERS' LIABILITY ACT, 1957	
Sect. 2 (3)	304
PORT OF LONDON (CONSOLIDATION) ACT, 1920	
Sect. 220	10
Sect. 223 (2)	10
ROAD TRAFFIC ACT, 1960	
Sect. 164 (5)	115
Sect. 168 (3)	115
Sect. 205 (1)	121
SALE OF GOODS ACT, 1893	
Sect. 11 (1) (c)	171
Sect. 14 (1)	404
UNITED STATES—	
LOUISIANA DIRECT ACTION STATUTE	469

CONTENTS

**NOTE:—These Reports should be cited as
“[1965] 2 Lloyd's Rep.”**

	PAGE
A/S Det Dansk-Franske Dampskibsselskab v. Compagnie Financière d'Investissements Transatlantiques S.A. (Compafina) (The <i>Himmerland</i>) — [Q.B. (Com. Ct.)]	353
<i>Abadesa</i> and the <i>Miraflores</i> , The — [Adm.]	254
Agricultores Federados Argentinos Sociedad Cooperativa Limitada v. Ampro S.A. Commerciale, Industrielle et Financière — [Q.B.]	157
Albacora S.R.L. v. Westcott & Laurence Line, Ltd. — [Ct. of Sess. (Inner House)]	37
Alexandria Cotton & Trading Company (Sudan), Ltd. v. Cotton Company of Ethiopia, Ltd. — [C.A.]	447
<i>Alletta</i> and the <i>England</i> , The — [Adm.]	479
Ampro S.A. Commerciale, Industrielle et Financière:—Agricultores Federados Argentinos Sociedad Cooperativa Limitada v. — [Q.B.]	157
Antwerp Steamship Company, Ltd.:—Stafford v. — [Q.B.] ...	104
<i>Ardea</i> , The — [Adm.]	143
Ashley v. J. Marr & Son, Ltd. — [Adm.]	299
Attorney-General v. Borough of Reading — [Ch.]	374
Awolesi:—National Bank of Nigeria, Ltd. v. — [P.C.] ...	389
<i>B.P. Distributor</i> , The — [Adm.]	86
Banca Popolare di Novara v. John Livanos & Sons, Ltd. — [Q.B. (Com. Ct.)]	149
Beattie v. New Zealand Shipping Company, Ltd. — [Ct. of Sess.]	382
Berry v. W. H. & J. Rogers (Aviation), Ltd. — [Q.B.] ...	393
Berwick v. Cunard Steam-Ship Company, Ltd. — [Q.B.] ...	331
Biddle v. Johnston — [Q.B. (Div. Ct.)]	121
Bissett v. L. & G. Fire Appliance Company, Ltd.; Foamite, Ltd.; Shell-Mex and B.P., Ltd. — [Q.B.]	93
Bond v. Canadian Pacific Steamships, Ltd. — [C.A.]	533
<i>Brabant</i> , The — [Q.B. (Com. Ct.)]	546
Braund, Ltd. <i>See</i> The Queen v. Registrar of the Court of Passage.	
Bristol Steam Navigation Company, Ltd.:—Commissioners of Customs and Excise v. — [Q.B.]	325
British Air Transport v. Jones — [Ch.]	556
British Railways Board and Another:—Gadd v. — [Q.B.] ...	24

CONTENTS—*continued*

	PAGE
British Steam Navigation Company, Ltd.:—Catton v. — [Q.B.]	344
Brooks Wharf & Bull Wharf, Ltd., and Another:—Richards v. — [Q.B.]	304
Bunge Corporation and Another:—Garnac Grain Company, Inc. v. — [C.A.]	229
Burnett v. Westminster Bank, Ltd. — [Q.B. (Com. Ct.)]	218
Canadian Pacific Steamships, Ltd.:—Bond v. — [C.A.]	533
Catton v. British India Steam Navigation Company, Ltd. — [Q.B.]	344
Chandris:—Government of Ceylon v. — [Q.B. (Com. Ct.)]	204
<i>Charger</i> , The — [Adm.]	538
Commissioners of Customs and Excise v. Bristol Steam Navigation Company, Ltd. — [Q.B.]	325
Compagnie Financière d'Investissements Transatlantiques S.A. (Compafina):—A/S Det Dansk-Franske Dampskibsselskab v. — [Q.B. (Com. Ct.)]	353
Compania Naviera Termar S.A. v. Tradax Export S.A. — [C.A.]	79
<i>Constellation</i> , The — [Adm.]	538
Cotton Company of Ethiopia, Ltd.:—Alexandria Cotton & Trading Company (Sudan), Ltd. v. — [C.A.]	447
Cunard Steam-Ship Company, Ltd.:—Berwick v. — [Q.B.]	331
—:—J. Kaufman, Ltd. v. — [Canada Ct.]	564
<i>Cythera</i> , The — [Aust. Ct.]	454
<i>Dideki</i> , The — [Adm.]	538
Dixon Kerly, Ltd. v. Robinson — [Q.B.]	404
East Ham Borough Council v. Bernard Sunley & Sons, Ltd. — [H.L.]	425
<i>England</i> and the <i>Alletta</i> , The — [Adm.]	479
<i>Errol</i> , The — [Adm.]	538
Esmail (trading as H. M. H. Esmail & Sons) v. J. Rosenthal & Sons, Ltd. — [H.L.]	171
<i>Fairport</i> , The — [Adm.]	183
<i>Farnella</i> , The — [Adm.]	299
Faure & Fairclough, Ltd., and Another:—Garnac Grain Company, Inc. v. — [C.A.]	229
Foamite, Ltd., and Others:—Bissett v. — [Q.B.]	93
Foot and Mouth Disease Research Institute:—Weller & Co. and Another v. — [Q.B.]	414
<i>Francesco C.</i> , The — [U.S. Ct.]	527

CONTENTS—*continued*

	PAGE
Gadd v. Port of London Authority and British Railways Board — [Q.B.]	24
Garnac Grain Company, Inc. v. H. M. F. Faure & Fairclough, Ltd., and Bunge Corporation — [C.A.]	229
Genys v. Matthews and Thompson — [L'pool Ct. of Pass.] ...	449
Gesellschaft Burgerlichen Rechts and Others v. Stockholms Rederiaktiebolag Svea — [Q.B. (Com. Ct.)]	546
Government of Ceylon v. Chandris — [Q.B. (Com. Ct.)] ...	204
Greater London Council v. Tilbury Contracting and Dredging Company, Ltd. (<i>The Stewart Clan</i>) — [Adm.]	10
 Hall & Ham River, Ltd.:—Hammond v. — [H.L.]	115
Hammond v. Hall & Ham River, Ltd. — [H.L.]	115
Hassan v. Trader Navigation Company, Ltd. — [M. & C.L. Ct.]	378
<i>Himmerland</i> , The — [Q.B. (Com. Ct.)]	353
 Independent Towing Company, Inc., <i>In re</i> , (<i>The Itco III</i>) — [U.S. Ct.]	469
<i>Itco III</i> , The — [U.S. Ct.]	469
 <i>Jarlinn</i> , The — [Adm.]	191
Johnston:—Biddle v. — [Q.B. (Div. Ct.)]	121
Jolliffe v. Townsend Bros. Ferries, Ltd. — [Q.B.]	19
Jones:—British Air Transport v. — [Ch.]	556
 Kaufman, Ltd. v. Cunard Steam-Ship Company, Ltd. — [Canada Ct.]	564
King v. Mercantile Lighterage Company, Ltd. — [Q.B.] ...	281
Kirkwood:—United Dominions Trust, Ltd. v. — [Q.B. (Com. Ct.)]	195
 L. & G. Fire Appliance Company, Ltd., and Others:—Bissett v. — [Q.B.]	93
Larrinaga Steamship Company, Ltd.:—Navarro v. — [Adm.]	134
Livanos & Sons, Ltd.:—Banca Popolare di Novara v. — [Q.B. (Com. Ct.)]	149
London County Council. <i>See</i> Greater London Council.	
Lusher v. Scheepvaart en Steenkolen Maatschappij N.V. — [Norwich Assizes]	30
 Mannix, Ltd. v. N. M. Paterson & Sons, Ltd. — [Canada Ct.]	108
Marr & Son, Ltd.:—Ashley v. — [Adm.]	299
Martin & Sons, Ltd.:—Morris v. — [C.A.]	63
Matthews and Thompson:—Genys v. — [L'pool Ct. of Pass.] ...	449

CONTENTS—*continued*

	PAGE
Mercantile Lighterage Company, Ltd.:—King v. — [Q.B.] ...	281
<i>Miraflores</i> and the <i>Abadesa</i> , The — [Adm.]	254
Montagu & Co., Ltd. v. Swiss Air Transport Company, Ltd. — [Q.B. (Com. Ct.)]	363
Morris v. C. W. Martin & Sons, Ltd. — [C.A.]	63
National Amalgamated Stevedores & Dockers and Others. <i>See</i> The Queen v. National Dock Labour Board.	
National Bank of Nigeria, Ltd. v. Awolesi — [P.C.]	389
National Dock Labour Board:—The Queen v. — [Q.B. (Div. Ct.)]	287
Navarro v. Larrinaga Steamship Company, Ltd. (The <i>Niceto de Larrinaga</i>) — [Adm.]	134
New Zealand Shipping Company, Ltd.:—Beattie v. — [Ct. of Sess.]	382
<i>Niceto de Larrinaga</i> , The — [Adm.]	134
Northern Sales, Ltd.:—Oleificio Zucchi S.p.A. v. — [Q.B. (Com. Ct.)]	496
Oleificio Zucchi S.p.A. v. Northern Sales, Ltd. — [Q.B. (Com. Ct.)]	496
Paterson & Sons, Ltd.:—Mannix, Ltd. v. — [Canada Ct.] ...	108
Port of London Authority and Another:—Gadd v. — [Q.B.]	24
Practice Direction — [Ch.]	286
————— [Ch.]	478
Practice Note — [Adm.]	388
<i>Probe</i> , The — [Adm.]	538
Queen, The v. National Dock Labour Board. <i>Ex parte</i> National Amalgamated Stevedores & Dockers and Others — [Q.B. (Div. Ct.)]	287
————— v. Registrar of the Court of Passage of the City of Liverpool. <i>Ex parte</i> Walter Braund, Ltd. — [Q.B. (Div. Ct.)]	297
Reading, Borough of:—Attorney-General v. — [Ch.]	374
<i>Regency</i> , The — [Adm.]	538
Regent Stevedoring Company, Ltd.:—Wade v. — [C.A.] ...	227
Registrar of the Court of Passage of the City of Liverpool:—The Queen v. — [Q.B. (Div. Ct.)]	297
Richards v. Brooks Wharf & Bull Wharf, Ltd., and Wrightson & Son, Ltd. — [Q.B.]	304
Robinson:—Dixon Kerly, Ltd. v. — [Q.B.]	404
Rogers (Aviation), Ltd.:—Berry v. — [Q.B.]	393
Rosenthal & Sons, Ltd.:—Esmail (trading as H. M. H. Esmail & Sons) v. — [H.L.]	171

CONTENTS—continued

	PAGE
St. Andrew's Steam Fishing Company, Ltd.:—Saul v. — [C.A.]	1
—:—Stansfield v. —	
[Adm.]	347
<i>St. Chad</i> , The — [C.A.]	1
<i>St. Chad</i> , The (No. 2) — [Adm.]	347
Saul v. St. Andrew's Steam Fishing Company, Ltd. (The <i>St. Chad</i>)	
— [C.A.]	1
Savage v. T. Wallis, Ltd. — [Q.B.]	272
Scheepvaart en Steenkolen Maatschappij N.V.:—Lusher v. —	
[Norwich Assizes]	30
Shell-Mex and B.P., Ltd., and Others:—Bissett v. — [Q.B.] ...	93
<i>Skylark</i> , The — [Adm.]	250
<i>Slieve More</i> , The — [Adm.]	138
Société Co-operative Sidmetal v. Titan International, Ltd. —	
[Q.B.]	313
Société Maritime Caledonienne v. The <i>Cythera</i> and her Cargo —	
[Aust. Ct.]	454
Stafford v. Antwerp Steamship Company, Ltd. — [Q.B.] ...	104
"Standard Austria S.H. 1964," The — [Adm.]	189
Stansfield v. St. Andrew's Steam Fishing Company, Ltd. (The	
<i>St. Chad</i> (No. 2)) — [Adm.]	347
<i>Stewart Clan</i> , The — [Adm.]	10
Stockholms Rederiaktiebolag Svea:—Gesellschaft Burgerlichen	
Rechts and Others v. — [Q.B. (Com. Ct.)]	546
<i>Sullivar</i> , The — [Adm.]	350
Sunley (Bernard) & Sons, Ltd.:—East Ham Borough Council v.	
— [H.L.]	425
<i>Surveyor</i> , The — [Adm.]	538
Swiss Air Transport Company, Ltd.:—Samuel Montagu & Co.,	
Ltd. v. — [Q.B. (Com. Ct.)]	363
<i>Talamba</i> and the <i>Troll</i> , The — [Adm.]	128
<i>The Skylark</i> — [Adm.]	250
Thompson and Matthews:—Genys v. — [L'pool Ct. of Pass.] ...	449
Tilbury Contracting and Dredging Company, Ltd.:—Greater	
London Council v. — [Adm.]	10
Titan International, Ltd.:—Société Co-operative Sidmetal v. —	
[Q.B.]	313
Townsend Bros. Ferries, Ltd.:—Jolliffe v. — [Q.B.]	19
Tradax Export S.A.:—Compania Naviera Termar S.A. v. —	
[C.A.]	79
Trader Navigation Company, Ltd.:—Hassan v. —	
[M. & C.L. Ct.]	378
<i>Troll</i> and the <i>Talamba</i> , The — [Adm.]	128

CONTENTS—*continued*

	PAGE
United Dominions Trust, Ltd. v. Kirkwood — [Q.B. (Com. Ct.)]	195
<i>Vigia</i> , The — [Adm.] 	538
Wade v. Regent Stevedoring Company, Ltd. — [C.A.]	227
Wallis, Ltd.:—Savage v. — [Q.B.] 	272
Weller & Co., and Whitehead, Whitehead, Hewett & Lee v. Foot and Mouth Disease Research Institute — [Q.B.]	414
Westcott & Laurence Line, Ltd.:—Albacora S.R.L. v. — [Ct. of Sess. (Inner House)] 	37
Westminster Bank, Ltd.:—Burnett v. — [Q.B. Com. Ct.]	218
Whitehead, Whitehead, Hewett & Lee and Weller & Co. v. Foot and Mouth Disease Research Institute — [Q.B.]	414
Wrightson & Son, Ltd., and Another:—Richards v. — [Q.B.]	304



LLOYD'S LIST LAW REPORTS

Editor: E. S. MATHERS
of the Middle Temple, Barrister-at-Law
Assistant Editor: G. M. HALL
of the Middle Temple, Barrister-at-Law

[1965] Vol. 2]

FRIDAY, AUGUST 13, 1965

[PART 1

COURT OF APPEAL

May 4 and 5, 1965

SAUL v. SAINT ANDREW'S STEAM
FISHING COMPANY, LTD.

(THE "ST. CHAD")

Before Lord Justice WILLMER, Lord Justice
HARMAN and Lord Justice WINN, sitting with
Mr. W. J. A. WOOD, M.B.E., Fishery
Assessor

**Master and servant—Unnecessary risk—Injury
to spare hand on trawler struck by heavy
sea—Liability of employers.**

Practice—Assessors' advice.

Personal injuries sustained by plaintiff spare hand on defendants' motor trawler *St. Chad*, when he was struck by heavy sea while working in fish pounds in fore-deck, in storm (wind, force 10)—Claim by plaintiff alleging that defendants were liable in that, in those weather conditions, their skipper was negligent (a) in navigating on automatic steering and in not having helmsman operating wheel manually; (b) in proceeding too fast; and (c) in ordering men into fish pounds—Denial of negligence by defendants.

—*Held*, by Sir JOCELYN SIMON, P., (a) that skipper was not negligent in using automatic steering; (b) that *St. Chad* was not proceeding at excessive speed; and (c) that skipper was not negligent in ordering men into fish pounds; and that, therefore, plaintiff's claim failed.

—Appeal by plaintiff, alleging that skipper was negligent in ordering men to work on fore-deck in weather conditions prevailing.

—*Held*, by C.A. (WILLMER, HARMAN and WINN, L.JJ.), that skipper had to balance risks involved: (a) risk to vessel if decks were not cleared (but defendants

had overstated that risk), and (b) risk to men if heavy sea broke over fore-deck (the evidence was that that was an exceptional event); that skipper could be held to be negligent if it could be shown that he ought reasonably to have foreseen that risk of injury to men amounted to a real probability; that that was not proved; and that, therefore, plaintiff's appeal should be dismissed.

Per WILLMER, L.J. (at p. 6): The advice which we have received from our Assessor is, as I understand the authorities, to be treated with exactly the same degree of respect as that of the Assessor in the Court below, neither more nor less. The advice of our Assessor is not to be regarded as superior merely because he happens to be advising a superior Court. His advice and that of the Assessor in the Court below must both be considered as part of the totality of the evidence in the case.

This was an appeal by the plaintiff, Mr. Aquila Saul, from a decision by Sir Jocelyn Simon, P. ([1965] 1 Lloyd's Rep. 107), dismissing his claim for damages against the defendants, Saint Andrew's Steam Fishing Company, Ltd., in respect of personal injuries which he sustained on the defendants' motor trawler *St. Chad*, when he was struck by a heavy sea while working in the fish pounds in the fore-deck, in a storm (wind, force 10).

The plaintiff had alleged that the defendants were liable in that, in those weather conditions, their skipper was negligent (a) in navigating on automatic steering and in not having a helmsman operating the wheel manually; (b) in proceeding too fast; and (c) in ordering men into the fish pounds.

The defendants denied that the skipper was negligent.

Sir JOCELYN SIMON, P., dismissing the plaintiff's claim, held (a) that the skipper was not negligent in using automatic

steering; (b) that the *St. Chad* was not proceeding at excessive speed; and (c) that the skipper was not negligent in ordering the men into the fish pounds.

The plaintiff appealed on the following grounds:

(a) The learned President should have found that it was negligent to cause or allow the plaintiff to work on the fore-deck of the *St. Chad* in the circumstances which he, the learned President, found to have been prevailing at the time of the accident.

(b) Having found that the wind at the time of the accident was of strong gale to storm force, the learned President should have found that the risk of a sea breaking over the fore-deck of the *St. Chad* and causing injury to the plaintiff was a foreseeable risk.

(c) The learned President should further have found on the evidence that the wind at the time of the accident was of violent storm force.

(d) The learned President should have found on the evidence that the risk of a sea breaking over the fore-deck of the *St. Chad* was in fact foreseen by the skipper of the *St. Chad* who nevertheless ordered the plaintiff to work on the fore-deck of the *St. Chad*.

(e) The learned President should have found that there was no real risk of any kind to the safety of the *St. Chad* or her crew if the work on her fore-deck had been left until the weather moderated, and should have found that the skipper of the *St. Chad* failed to take all reasonable care for the safety of the plaintiff when he ordered him to work upon the fore-deck of the *St. Chad* in the circumstances prevailing.

(f) The learned President was wrong in holding that there was an element of danger to the *St. Chad* if the nets had broken loose, about which there was neither evidence nor argument at the trial of the action.

(g) The learned President was wrong in holding that the method of conducting the navigation of the *St. Chad* by her skipper, i.e., single handed on the bridge with the steering in automatic, was a method consistent with taking all reasonable care for the safety of the plaintiff while he was working on the fore-deck of the *St. Chad*.

(h) The learned President should have found that if the *St. Chad* had been on hand steering and with at least two persons keeping a look-out on the bridge the

approaching sea might have been observed sooner and/or soon enough for appropriate action to have been taken to avoid the accident to the plaintiff.

(i) The learned President was wrong in holding that the economic interest of the plaintiff in the catch, about which there was no evidence, was a proper factor to take into consideration in judging whether the skipper had taken all reasonable care for his safety.

(j) The learned President was wrong in disregarding the evidence of apprehension felt by the plaintiff when he was ordered to work on the fore-deck of the *St. Chad* in the circumstances prevailing.

(k) The learned President was wrong in finding that the slight list to starboard observed only by the chief engineer of the *St. Chad* was caused by a blocking of her starboard scuppers or of water being held only on the starboard side of her fore-deck, when the list to starboard, if any, was far more consistent with the sea having struck her port bow.

(l) The learned President should on the evidence have found (i) that there was virtually no risk of the scuppers of the *St. Chad* being blocked, and (ii) if water came on to the deck of the *St. Chad*, there was no reason to believe that it would be caught in the starboard side of her fish pounds rather than the port side.

(m) The learned President should have found that the plaintiff's accident was caused by a failure on the part of the skipper of the *St. Chad* to take all reasonable care to protect the plaintiff from a risk, which was clearly foreseeable and was in fact foreseen.

Mr. Peter T. Bucknill, Q.C., and Mr. Gerald Darling (instructed by Messrs. Devonshire & Co., agents for Messrs. Pearlman & Rosen, of Hull) appeared on behalf of the appellant plaintiff; Mr. Waldo Porges, Q.C., and Mr. Michael D. Thomas (instructed by Messrs. Theodore Goddard & Co., agents for Messrs. Andrew M. Jackson & Co., of Hull) represented the respondent defendants.

JUDGMENT

Lord Justice WILLMER: This is an appeal from a judgment of the President of the Probate, Divorce and Admiralty Division, given on Dec. 9, 1964 ([1965] 1 Lloyd's Rep. 107), whereby he dismissed a claim for damages for personal injuries brought by the plaintiff against the