satisfied with the verdict, and he reports that the judges who tried the two previous actions were also satisfied with the verdicts given in them. Their Lordships see no reason for thinking the verdict wrong on the evidence adduced. Their Lordships will therefore humbly advise His Majesty to dismiss the appeal, and the appellant company must pay the costs.

Judgment appealed from affirmed.

Counsel for the Plaintiff and Respondent—H. Drysdale Woodwick. Agent—J. H. Galbraith.

Counsel for the Defendants and Appellants—Asquith, K.C.—Hon. F. Russell. Agents—Charles Russell & Co.

HOUSE OF LORDS.

Tuesday, May 10.

(Before the Lord Chancellor (Halsbury), Lords Macnaghten and Lindley.)

WINANS *v.* THE ATTORNEY-GENERAL.

(ON APPEAL FROM THE COURT OF APPEAL IN ENGLAND.)

Domicile—Domicile of Succession—Change of Domicile—Onus of Proving Change of Domicile.

The *onus* of proving that a domicile has been chosen in substitution for a domicile of origin lies upon the person asserting the change of domicile, and it is necessary for him to prove that the person who is alleged to have changed his domicile had a fixed and determined purpose to make the place of his new domicile his permanent home.

A, who was born in the United States of America in 1823, lived there till 1850, when he went to Russia and resided there for business purposes. From 1860 to 1870 he spent the winter in Brighton for considerations of health, returning to Russia for the remaining eight months of each year. From 1871 to 1883 he spent about two months annually in Russia, two or three months in Kissingen in Germany, and the rest of the year in Brighton, Scotland, or London. In 1883 he ceased to visit Russia, thenceforward till 1893 dividing his time between, Kissingen, London, Brighton, and Scotland. After 1893 till his death in 1897 he spent the whole year in England—in London, Brighton, and the country.

He never bought any property in England, but lived while there in furnished houses and hotels. He spent the latter half of his life in attempting to perfect the construction of spindle-shaped vessels, which he asserted were an invention of his family. In an application to the U.S.A. Congress in 1892 he represented himself as attached heart and soul to his country, and declared that a fleet of his spindle-shaped vessels subsidised by Congress would restore to America the carrying trade which had fallen into the hands of England and other foreign nations, secure to America the command of the sea, and make it impossible for Great Britain to maintain war against the United States. He retained a large interest in a property of 200 acres in Baltimore, U.S.A., and in the conveyance by which he acquired the remaining portion of this property in 1897 he was described as "of city of Baltimore, but now sojourning in the city of London, England." In his will, dated also in 1897, he described himself as a "citizen of the United States of America," residing at Brighton.

After his death his will was proved in England, and the Crown brought an action claiming legacy-duty on his estate on the ground that he had acquired a domicile in England.

Held (*diss.* Lord Lindley) that the Crown had failed to discharge the *onus* incumbent on them of proving that A had changed his domicile of origin, and that the claim for legacy-duty therefore failed.

An action was raised by information by the Attorney-General on behalf of the Crown against the sons of William Louis Winans, who died on 22nd June 1897, as administrators of the estate of their father. In this action the Crown claimed legacy-duty at 10 per cent. on an annuity bequeathed by Mr Winans in his will, on the ground that Mr Winans, although born in the United States of America, was domiciled in England at the date of his death.

The Queen's Bench Division (KENNEDY and PHILLIMORE, JJ.) decided in favour of the Crown. On Appeal the Court of Appeal (COLLINS, M.R., STIRLING and MATHEW, L.JJ.) affirmed this judgment.

The defendants appealed.

The facts of the case are set forth in the opinion of Lord Macnaghten.

At delivering judgment—

LORD CHANCELLOR (HALSBURY)—The short question here is whether Mr Winans was at the time of his death domiciled in this country. So far as it is a question of law it is simple enough to state; but when the law has been stated a difficult and complex question of fact arises, which it is almost always very hard to solve. Now, the law is plain that where a domicile of origin is proved it lies upon the person who asserts a change of domicile to establish it, and it is necessary to prove that the person who is alleged to have changed his domicile has a fixed and determined purpose to make the place of his new domicile his permanent home. Although many varieties of expression have been used, I believe that the idea of domicile may be quite adequately expressed by the phrase, Was the place intended to be the permanent home? Now, Mr Winans was an American

citizen; he resided in Russia for some time; he had various residences in England and great sporting leases in Scotland. He married in St Petersburg a Guernsey lady. He had property in the United States, and he originally came to England upon the recommendation of his medical man. He lived a very long time in England; and if I were satisfied that he intended to make England his permanent home, I do not think that it would make any difference that he had arrived at the determination to make it so by reason of the state of his health, as to which he was very solicitous. It would be enough that for obvious reasons he had determined to make England his permanent home; but was that his determination? I confess that I am not able very confidently to answer that question either way. I have been in considerable doubt when I view his whole career whether he ever intended finally to remain here. He had invented cigar-shaped boats, in which he took a deep interest as inventor, and also as one who meant to travel back to his own country when his boats succeeded. It may be that your Lordships do not think that he was likely to succeed; but it may be confidently asserted that the inventor thoroughly believed that he would succeed. It is true that great reliance might be placed upon his great acquisition of sporting areas in Scotland, but, on the other hand, they were acquired by him rather as profiting-making investments than because he himself was devoted to sport; but even in this, as in some other parts of his conduct, it is difficult to say that a certain inference could be deduced from what he did. Being a man of enormous wealth, he never made a home for himself or his family, such as one would have expected if he had really meant to remained permanently in England. Like all questions of fact dependent upon a variety of smaller facts, it is possible to treat this or that piece of evidence as conclusive, and different minds will attribute different degrees of importance to the same facts. I must admit that I have regarded the whole history of Mr Winans' life differently at different stages of the argument, and the conclusion to which I have come is that I cannot say that I can come to a satisfactory conclusion either way; but then the law relieves me from the embarrassment which would otherwise condemn me to the solution of an insoluble problem, because it directs me in my present state of mind to consider upon whom is the burden of proof. Undoubtedly it is upon the Crown; and, as I have said that I cannot bring myself to a conclusion either way whether Mr Winans did or did not intend to change his domicile, his domicile of origin must remain, and I therefore am of opinion that the judgment of the Court of Appeal ought to be reversed.

LORD MACNAGHTEN — There is, I think, hardly any branch of law which has been more frequently or more fully discussed in this House in comparatively modern times than the law of domicile. Difficulties have arisen, and difficulties must arise now and then, in coming to a conclusion upon the facts of a particular case. But those difficulties, as Lord Cottenham said, are "much diminished by keeping steadily in view the principle which ought to guide the decision as to the application of the facts." Domicile of origin, or, as it is sometimes called, perhaps less accurately, domicile of birth, differs from domicile of choice mainly in this—that its character is more enduring, its hold stronger, and less easily shaken off. In *Munro* v. *Munro* (August 10, 1840, 1 Rob. App. 606) Lord Cottenham observed that it was one of the principles adopted not only by the laws of England, but generally by the laws of other countries, "that the domicile of origin must prevail until the party has not only acquired another, but has manifested and carried into execution an intention of abandoning his former domicile and acquiring another as his sole domicile. . . . Residence alone," he adds, "has no effect *per se*, though it may be most important as a ground from which to infer intention." "The law," said Lord Cairns, L.C., in *Bell* v. *Kennedy* (May 14, 1868, 6 Macph. (H.L.) 71), "is beyond all doubt clear with regard to the domicile of birth that the personal status indicated by that term clings and adheres to the subject of it until an actual change is made by which the personal status of another domicile is acquired." The onus of proving that a domicile has been chosen in substitution for the domicile of origin lies upon those who assert that the domicile of origin has been lost. "Residence and domicile," as Lord Westbury points out, "are two perfectly distinct things. . . . Although residence may be some small *prima facie* proof of domicile, it is by no means to be inferred from the fact of residence that domicile results, even although you do not find that the party had any other residence in existence or in contemplation." Lord Chelmsford's opinion was that "in a competition between a domicile of origin and an alleged subsequently-acquired domicile there may be circumstances to show that, however long a residence may have continued, no intention of acquiring a domicile may have existed at any one moment during the whole of the continuance of such residence. The question in such a case is not whether there is evidence of an intention to retain the domicile of origin, but whether it is proved that there was an intention to acquire another domicile." Such an intention, I think, is not to be inferred from an attitude of indifference or a disinclination to move increasing with increasing years, least of all from the absence of any manifestation of intention one way or the other. It must be, to quote Lord Westbury again, a "fixed and settled purpose." "And," says his Lordship, "unless you are able to show that with perfect clearness and satisfaction to yourselves, it follows that a domicile of origin continues." So heavy is the burden cast upon those who seek to show that the domicile of origin has been superseded by a domicile of choice. And

rightly I think. A change of domicile is a serious matter—serious enough when the competition is between two domiciles both within the ambit of one and the same kingdom or country, more serious still when one of the two is altogether foreign. The change may involve far-reaching consequences in regard to succession and distribution and other things which depend on domicile. To the same effect was the inquiry which Lord Cairns proposed for the consideration of the House in *Bell* v. *Kennedy*. It was this—whether the person whose domicile was in question had "determined" to make, and had in fact made, the alleged domicile of choice "his home with the intention of establishing himself and his family there and ending his days in that country." In a later case (*Douglas* v. *Douglas*, 1871, L. Rep., 12 Eq. 617) which came before Wickens, V.C., who was an excellent lawyer, and, owing to the official position which he long held, peculiarly conversant with cases of this sort, all the authorities were reviewed. The competition there was between a Scotch domicile of origin and an alleged English domicile of choice. The learned Vice-Chancellor thought the case "a peculiar and difficult one." He put the question in this way: "What . . . has to be here considered," he said, "is whether the testator . . . ever actually declared a final and deliberate intention of settling in England, or whether his conduct and declarations lead to the belief that he would have declared such an intention if the necessity of making the election between the countries had arisen." If the authorities which I have cited are still law, the question which your Lordships have to consider must, I think, be this—Has it been proved "with perfect clearness and satisfaction to yourselves" that Mr Winans had at the time of his death formed a "fixed and settled purpose" —a "determination," "a final and deliberate intention"—to abandon his American domicile and settle in England? Considering the amount of Mr Winans' fortune, which was between two and three millions in marketable securities, and the length of his residence in this country, it is somewhat singular that the evidence offered on the question before your Lordships should be so meagre. There is not a single letter written by or to him, or a memorandum or note of any sort made by him, which bears directly on the point. There is nothing but long-continued residence in England on the one hand and some oral declarations and some words in some legal documents on the other. There is nothing else except such inference as may be drawn from a consideration of Mr Winans' character and disposition, the life he led here, and the objects which he seems to have had most at heart. The principal events in Mr Winans' life may be stated briefly. He was born in the United States in 1823. He lived there till 1850, residing at Baltimore with his father, a railway contractor, and employed in his father's business. Mr Winans' eldest son, Walter, who was examined in this case, says that when he spoke of Baltimore he always called it "home." In 1850 Mr Winans went to Russia. He was employed by the Russian Government, as his father had been, in equipping railways there on the American system. During the Crimean War he rendered assistance to the Russian Government in the construction and equipment of gunboats to be used against the enemy—England and England's ally. In Russia he married a Guernsey lady, the daughter of a gentleman also employed by the Russian Government. He had two sons by her. In 1859 his health broke down. There were symptoms of consumption, and he was warned by his doctor that another winter in Russia would probably be fatal. He was advised to winter in Brighton in England. Very reluctantly, under medical orders, he left St Petersburg and spent the winter in an hotel at Brighton, returning to Russia when the winter was over. In 1860 he took a furnished house in Brighton, No. 2 Chichester Terrace, for a term of five years, determinable at the end of any year. He also took the next house, No. 1, for a term of twenty-one years, determinable at the fifth, seventh, or fourteenth year. He connected the two houses structurally. He held both these houses at the time of his death—the furnished house No. 2 as tenant from year to year, and No. 1 on a tenancy similar to that on which it was originally taken. From 1860 down to 1870 or 1871 he used to spend the winter at Brighton and about eight months of the year in Russia. In 1870 he gave up his house in St Petersburg and took a lease of some shooting in Scotland, apparently for the sake of his sons, for he shot very little himself. From 1871 to 1883 he spent about two months in Russia, two or three months in Kissingen, in Germany, and the rest of the year in Brighton, Scotland, or London. In 1883 he ceased to visit Russia, thenceforward dividing his time between Kissingen, Brighton, London, and Scotland. This mode of life continued until 1893. After that date he spent the whole year in England—in London, Brighton, and the country. He never bought an estate in England for himself or for either of his sons. As far as he was concerned "he preferred living in furnished houses or hotels," so his son says. Two events in his life referred to in the argument have, I think, no bearing on the question before your Lordships. In 1877, to please his wife, he bought the Crown lease of a house in Palace Gardens. But he never lived there until after 1892. It was shut up, and he tried to dispose of it. When he bought the lease he seems to have made particular inquiries in order to ascertain whether there was anything in the conditions of the lease which might prevent his parting with it at any time he pleased. He never liked to "hamper" himself. Any prudent person would probably have done the same. Then there was his unfortunate experiment in the management and improvement of deer forest in Scotland. He took vast tracts of forest, not perhaps

altogether for sporting purposes as sport is understood in this country. After a time he inclosed the ground with miles of fencing to prevent the deer from straying. He had a notion that the value of the forest for letting purposes would be much increased by stopping shooting for some years and allowing the stags a longer term of undisturbed life. However, he got into trouble with the crofters and with his lessors, and he became rather unpopular, both with those by whom deer-stalking is highly esteemed and those to whom deer forests are an abomination. He thought, too, that he had rather wasted money on the shootings—so he gave up his experiment, and he seems to have got rid of all the Scotch shootings before his death. In the dearth of evidence by written or oral declaration as to Mr Winans' intentions, it seems to me to be important to consider what manner of man he was, what were the main objects of his existence, and what sort of life he lived in this country. I think that there is a good deal of force in some observations that were made both by Lord Cranworth and Lord Wensleydale in the case *Whicker* v. *Hume* (1858, 7 H. L. C. 124) to the effect that in these days when the tendency of the educated and leisured classes is to become cosmopolitan—if I may use the word—you must look very narrowly into the nature of a residence suggested as a domicile of choice before you deprive a man of his native domicile. Mr Winans was a person of considerable ability and of singular tenacity of purpose, self-centred, and strangely uncommunicative. He was not interested in many things, but whatever he did, he did, as his son says, thoroughly. He became completely absorbed in a scheme when he took it up. At the same time he lived a very retired, almost a secluded, life. He took no part in general or municipal politics. He rarely went into society. He had no intimate friends, if indeed he had any friends at all, in this country. There is no evidence that he was interested in any charity or charitable or philanthropic institution in England. Although he was on affectionate terms with his two sons, he never let them into his secrets. He always worked his business himself," his son says, "and never brought us into the business affairs in any way." And although at odd times he mentioned his property in America, he never allowed even his eldest son "to understand much about it." Mr Winans had three objects in life. His first object was his health. He nursed and tended it with wonderful devotion. He took his temperature several times a day. He had regular times for taking his temperature and regular times for taking his various waters and medicines. Besides the care of his health there were two other objects which engrossed his thoughts. The first was the construction of spindle-shaped vessels commonly, called cigar ships. This form of vessel was, as Mr Winans asserted, an invention of the Winans family. Many patents were taken out for it both in England and in America. It was asserted that vessels of this type would be able to cross the Atlantic without pitching or rolling. In an application to Congress in the year 1892 Mr Winans represented himself as attached heart and soul to his country and asked for protection for a long term of years in consideration of the great expenditure which he and his family had incurred in perfecting the invention, and the vast benefits that would result from it to the people of the United States. Mr Winans declared his confident expectation that a fleet of spindle-shaped vessels subsidised by Congress would restore to America the carrying trade which had fallen into the hands of England and other foreign nations, secure to America the command of the sea, and make it impossible for Great Britain to maintain war against the United States. Such a fleet as he described in his application could, he said, "meet war vessels in open sea near the European side and destroy one vessel after another, so that none of them would be able to reach our shores." In the development of his invention Mr Winans stated that he had incurred an expense equal to nearly 4,000,000 dollars. Mr Winans' confidence in this project remained unshaken to the end of his life, and he kept an office in Beaufort Gardens where a staff of engineers and draftsmen were engaged in working out the problem. There was another scheme which Mr Winans hoped to develop and work in connection with his fleet of spindle-shaped vessels. In 1859 a property in Baltimore, about 200 acres in extent, called Ferry Bar, was purchased on behalf of the Winans family, originally for the purpose of being used, as Mr Winans states in a letter of the 31st January 1882, "for the service of the sea-going steamers of the spindle-shaped form." The scheme was that the water frontage should be used for wharves and docks, while a portion of the property should be laid out for the building of first-class houses as a sort of Belgravia. There Mr Winans intended to build a big house for himself and control the undertaking, which would make the property he thought when developed, worth one million sterling. Nothing practical came of this scheme, because the family could not agree among themselves as to how the property was to be developed. So Mr Winans determined to wait until he could get the whole into his own hands. Then he would develop the property himself in his own way and according to his own ideas. He did not succeed in acquiring the entire interest until just before his death. At the date of his death, his son says, "he was working night and day on it." I find that in the conveyances of the last portion of the Ferry Bar property, which were prepared just before his death, and are dated the 16th June 1897, Mr Winans is described as "of city of Baltimore, but now sojourning in the city of London, England." Of course to us these schemes of Mr Winans appear wild, visionary, and chimerical. But I have no doubt that a man like Mr Winans, wholly wrapt

up in himself, they were very real. They were the dream of his life. For forty years he kept them steadily in view. And one was anti-English and the other wholly American. It was in connection with these schemes that the latest and clearest declaration of intention was made by Mr Winans. Mr H. Montague Williams, who was his solicitor at Brighton, says that about two years before his death, a time which in cross-examination he fixed in the winter of 1895 or beginning of 1896, Mr Winans entered into rather a lengthy disquisition about the Ferry Bar property. Mr Winans told him that he was making arrangements for buying the remaining shares in it; that a good deal of it belonged to him; and that he intended when he had done that to go out to America and live in Baltimore and develop the estate there himself. Mr Williams says he remembers Mr Winans particularly saying "If I do that it will be worth a million pounds," and he adds, "The decided way in which he said 'I shall go out to Baltimore' (or words to that effect) struck me at the time." The only other circumstance to be mentioned is that in his will, dated the 4th February 1897, Mr Winans describes himself as a "citizen of the United States of America." It was argued on behalf of the Crown that although Mr Winans may have been prevented by the state of his health from returning to America when he left Russia, and although he could not have safely attempted the voyage in the latter years of his life, yet there was a time in which he might have ventured to cross the Atlantic in an ordinary liner. The obvious answer is at that time, when divided counsels and family disagreements prevented the development of the Ferry Bar property, he had no object in going to Baltimore. Then it was said that the length of time during which Mr Winans resided in this country leads to the inference that he must have become content to make this country his home. Length of time is of course a very important element in questions of domicile. An unconscious change may come over a man's mind. If the man goes about and mixes in society that is not an improbable result. But in the case of a person like Mr Winans, who kept himself to himself, and had little or no intercourse with his fellow men, it seems to me that at the end of any space of time, however long, his mind would probably be in the state in which it was at the beginning. When he came to this country he was a sojourner and a stranger, and he was, I think, a sojourner and a stranger in it when he died. On the whole I am unable to come to the conclusion that Mr Winans ever formed a fixed and settled purpose of abandoning his American domicile and settling finally in England. I think that up to the very last he had an expectation or hope of returning to America and seeing his grand schemes inaugurated. To take the test proposed by Wickens, V.C., "If the question had arisen in a form requiring a deliberate or solemn determination," I have no doubt that Mr Winans, who was, as his son says, "entirely American in all his ideas and sympathies," would have answered it in favour of America. I am therefore of opinion that the Crown has not discharged the onus cast upon it, and I think that the order appealed from ought to be reversed.

LORD LINDLEY—I take it to be clearly settled by the *Lauderdale Peerage* case (July 22, 1885, 10 App. Cas. 692); *Udny* v. *Udny* (June 3, 1869, 7 Macph. (H.L.) 89), and *Bell* v. *Kennedy* (May 14, 1868, 6 Macph. (H.L.) 69, 5 S.L.R. 566) that the burden of proof in all inquiries of this nature lies upon those who assert that a domicile of origin has been lost and that some other domicile has been acquired. Further, I take it to be clearly settled that no person who is *sui juris* can change his domicile without a physical change of place coupled with an intention to adopt the place to which he goes as his home or fixed abode or permanent residence, whichever expression may be preferred. If a change of residence is proved, the intention necessary to establish a change of domicile is an intention to adopt the second residence as home, or, in other words, an intention to remain without any intention of further change except possibly for some temporary purpose—See Story's Conflict of Laws, sec. 43; and *re Cragnish* [1892], 3 Ch. 180; *Attorney-General* v. *Pottinger*, 6 H. & N. 733; *Douglas* v. *Douglas*, 1871, L.R., 12 Eq. 617. The change of residence here is plain enough and need not be enlarged upon. The difficulty is about the intention of Mr Winans with reference to the change. The exact time when he made up his mind to settle here cannot be ascertained. There is no document or conversation which enables anyone to fix the date. But it by no means follows that when he died it cannot be inferred that he must have abandoned all thoughts of going back to America and settling there, and have gradually become content to make his home in this country without contemplating any further change. If this can be established, a change of domicile will be the legal result—*Haldane* v. *Eckford*, 1869, L.R., 8 Eq. 631; *Douglas* v. *Douglas*, *supra*. An intention to change nationality—to cease to be an American and to become an Englishman—was said to be necessary in *Moorhouse* v. *Lord*, 1863, 10 H.L.C. 272; but that view was decided to be incorrect in *Udny* v. *Udny*, *supra*. Intention may be inferred from conduct, and there are cases in which domicile has been changed notwithstanding a clear statement that no change of domicile was intended—see *re Steer*, 3 H. & N. 594; and *per* Wickens, V.C., in *Douglas* v. *Douglas*, *supra*. An expressed intention to return for a temporary purpose, or in some possible event which never happens, will not prevail over a clear inference from other circumstances of an intention to remain—see *Attorney-General* v. *Pottinger*, *supra*, *per* Bramwell, B; *Doucet* v. *Geoghegan*, 1878, 9 Ch. Div. 441. I do not propose to refer at length to the details of Mr Winans life. They were elaborately brought to

your Lordships' attention by counsel. There is no real controversy about the facts. The question is, what inference ought to have been drawn from them? Here I have the misfortune to differ from my noble and learned friends who have just addressed the House. I have arrived at the same conclusion as that arrived at by Kennedy and Phillimore, JJ., and by the Court of Appeal. I cannot myself draw any other inference. Where was his home, his settled permanent home? He had one and only one, and that one was in this country; and long before he died I am satisfied that he had given up all serious idea of returning to his native country. He was an American citizen permanently settled in this country. But although so settled he was proud of his nationality and had no intention of changing it. He may at one time have looked back on Baltimore as his possible ultimate home, but he had ceased to do so long before he died. In 1880 he proposed to build a house for himself in Baltimore, but this came to nothing; and none of his later schemes for developing his property there were carried out in his lifetime, nor did they involve any change of residence on his part. A dim hope and expectation of being at some time able to return to America when he had succeeded in constructing a ship to his liking, which he never did, is spoken to by his son; but when last does not appear. I can find nothing to displace the only inference which I can draw from Mr Winans' conduct for the last twenty or twenty-five years of his life. In my opinion the appeal should be dismissed with costs.

Judgment appealed from reversed.

Counsel for the Plaintiff and Respondent—The Attorney General (Sir R. Finlay, K.C.)—The Solicitor General (Sir E. Carson, K.C.)—Vaughan Hawkins. Agent—Sir F. C. Gore, Solicitor of Inland Revenue.

Counsel for the Defendants and Appellants—Asquith, K.C.—R. M. Bray, K.C.—Willoughby Williams—Kerrick. Agent—E. H. Quicke for H. Montague Williams, Brighton.

HOUSE OF LORDS

Friday, May 17.

(Before the Lord Chancellor (Halsbury), Lords Macnaghten, and Lindley.)

STEEL, YOUNG, & COMPANY *v.* GRAND CANARY COALING COMPANY.

(On Appeal from the Court of Appeal in England.)

Shipping Law—Charter-Party—Construction of Charter-Party—Charter to Become Void if Stoppage by Strike Continuing for Six Days from Time of Vessel being Ready to Load.

Under a charter-party it was provided that the cargo should be loaded in 140 running hours, commencing when written notice was given of the ship being ready to load, any time lost through, *inter alia*, strikes not to be computed as part of the loading time unless any cargo was actually loaded during such time. It was also provided that in the event of any stoppage or stoppages arising from strikes "continuing for six running days from the time of the vessel being ready to load," the charter should become void, provided that no cargo had been shipped previous to such stoppage or stoppages.

Due notice was given to the charterers that the ship was ready to load. The loading time expired and no cargo was loaded. After the expiry of the loading time a stoppage caused by a strike commenced and lasted for more than six days. Thereafter the charterers gave notice to the owners that the charter was cancelled.

Held that in terms of the charter-party the charter only became null and void in the event of a stoppage existing at the commencement of the loading time, and that the charterers were liable in damages to the owners of the ship for the results of their having illegally cancelled the charter.

Under a charter-party between Steel, Young, & Company, the owners of a screw-steamer called the "Nith," and the Grand Canary Coaling Company, the ship was engaged to carry a cargo of coal from Newport in Monmouthshire to Santa Cruz or Las Palmas. Clause 3 of the charter-party provided—"The cargo to be loaded in 140 running hours . . . commencing when written notice is given of steamer being completely discharged of inward cargo and ballast in all her holds and ready to load. . . . Any time lost through riots, strikes, lock-outs . . . or by reason of . . . any cause beyond the control of the charterers not to be computed as part of the loading time unless any cargo be actually loaded during such time. In the event of any stoppage or stoppages arising from any of these causes continuing for six running days from the time of the vessel being ready to load, this charter shall become null and void, provided, however, that no cargo shall have been shipped on board the steamer previous to such stoppage or stoppages."

On 8th August 1900 due notice was given to the charterers that the ship was ready to load. The loading time expired on 15th August, but no cargo had been loaded.

On 20th August a strike occurred, which caused a stoppage of the coal intended for the ship. This strike lasted for six days.

On 28th August the charterers gave notice to the owners that the charter was cancelled and had become null and void in terms of the charter-party.

On 3rd September the ship obtained another charter but at a lower freight.

Thereafter the owners brought an action against the Grand Canary Coaling Company for damages for the delay from 8th