

REVIEW OF CURRENT ENGLISH CASES.

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ADMIRALTY — SHIP — COLLISION — ADMISSION OF CONTRIBUTORY NEGLIGENCE BY DEFENDANT — BURDEN OF PROOF — RIGHT TO BEGIN.

The Cadeby (1909) P. 257. This was an action in admiralty to recover damages for a collision alleged to be wholly due to the defendant's fault. The statement of claim alleged specific acts of negligence by the defendants, and charged breaches of the regulations for preventing collisions. The defendants by their defence charged the plaintiffs with specific breaches of the regulations, and counterclaimed for damages for the collision. By their reply the plaintiffs joined issue with the defence, and denied the allegations in the counterclaim. Subsequently, by letter, the defendants admitted that the collision was due to contributory negligence on their part. Bigham, P.P.D., held that on the pleadings as they stood, and even when coupled with the defendants' letter, the onus was on the plaintiffs and they were entitled to begin.

COMPANY — WINDING UP — PREFERENCE SHARES — DISTRIBUTION OF ASSETS — UNDECLARED PREFERENTIAL DIVIDENDS.

In re Accrington Corporation Steam Tramways Co. (1909) 2 Ch. 40. In this case a joint stock company incorporated by special Act which incorporated the provisions of the Companies Act, 1845 (8 & 9 Vict. c. 16), s. 120, was being wound up, and the question arose on the distribution of the assets, whether the preferential shareholders were entitled to any priority of payment in respect of either the capital or the fixed preferential dividend. Eady, J., held that they were entitled to no priority either as to capital or dividends: and that where the assets are insufficient, the preference shareholders are not entitled to arrears of undeclared preferential dividends out of the undistributed profits, but the whole assets are distributable among all shareholders (preferential and ordinary) in proportion to the shares held by them.

RAILWAY CROSSING — ALTERATION OF USER — INCREASE OF BURDEN.

Taff Vale Railway Co. v. Canning (1905) 2 Ch. 48. This was an action to restrain the defendants from using the level cross.