PRACTICE—SURPRISE—ACTION TRIED BY JURY—NEW ISSUE RAISED BY DEFENDANT AT TRIAL—NO APPLICATION FOR ADJOURNMENT—TRIAL LASTING SOME DAYS AFTER NEW ISSUE KNOWN—NEW TRIAL.

Isaacs v. *Hobhouse* (1919) 1 K.B. 398. This was an application by the plaintiff for a new trial on the ground of surprise. The action was for libel and was tried with a jury. On the second day of the trial or beginning of the third day, the plaintiff hearing that the defendant was going to state that the first of the two interviews at which facts material to some of the questions in issue arose, was some months earlier than the plaintiff thought was admitted to be the date, and on this new issue the plaintiff was not prepared with evidence to corroborate his evidence as to the date. No adjournment, however, was asked and the trial proceeded some days longer and resulted in a verdict for the defendant. The plaintiff rested his claim to a new trial on the ground that he was surprised by the new issue, and that it would have been useless to have asked for an adjournment as his principal witness on the point was absent in America and he did not then know what evidence he would be able to give. The Court of Appeal (Bankes, Warrington and Scrutton, L.JJ.) refused the motion, holding that as the plaintiff did not apply for an adjournment, he must be taken to have taken his chance of obtaining a verdict on the evidence then at his disposal.

PRACTICE—INJUNCTION TO RESTRAIN PROCEEDINGS—CONCURRENT ACTION AS TO SAME MATTER—PROCEEDINGS BY PLAINTIFF IN ENGLAND AND BY DEFENDANT IN SCOTLAND—OPPRESSIVE OR VEXATIOUS PROCEEDINGS—BURDEN OF PROOF.

Cohen v. *Rothfield* (1919) 1 K.B. 410. On September 9, 1918, this action was commenced by the plaintiff against the defendant as his agent claiming an account and for damages for breach of duty in wrongly inducing the plaintiff's customers to become the defendant's customers. On September 14, the defendant commenced an action in Scotland against the plaintiff claiming an account of the transactions between himself and the plaintiff. The plaintiff applied to restrain the defendant from prosecuting the Scotch action as being in the circumstances vexatious and oppressive. Shearman, J., granted the application, but the Court of Appeal (Scrutton, L.J. and Eve, J.) held that as it appeared that the defendant had announced his intention of bringing the Scotch action before the plaintiff commenced the present action, and had more diligently prosecuted his action than the plaintiff