

affirmed the judgment of Bray, J., (1906) 2 K.B. 804 noted ante, p. 246.

SHIP—CHARTER—PARTY—DEMURRAGE—LAY DAYS, SUNDAYS AND
HOLIDAYS EXCEPTED—WORK DONE ON SUNDAYS AND HOLIDAYS.

Whittall v. Rahtken's Shipping Co. (1907) 1 K.B. 783 was an action by the plaintiffs' the charterers of the defendants' vessel to recover money paid under protest for demurrage. The charter-party provided that thirteen running days, Sundays and holidays excepted, should be allowed the plaintiffs for loading the cargo. By direction of the plaintiffs, however, work was done in loading the ship on a Sunday after the lay days had begun to run and before they had expired. Bray, J., held that the proper inference was that by agreement of the parties that day was to be included in the lay days and that, in the absence of any evidence to the contrary, the same inference should be drawn when the work is done on the Sunday and holiday whether by the direction or at the request of the charterer or not. The charter-party also provided that the time in shifting port was to count as a lay day, and it was held that where the vessel at the charterers' request shifted port on Sunday, that day was to be included in the lay days. The plaintiffs' action therefore failed.

SHIP—SEAMAN—CONTRACT OF SERVICE—CARGO, CONTRABAND OF
WAR—REFUSAL OF SEAMAN TO PROCEED—ORDER OF NAVAL
COURT—MERCHANTS SHIPPING ACT, 1894 (57-58 VICT. c. 60),
s. 225, SUB-S. 1 (c), s. 243.

Hutton v. Ras SS. Co. (1907) 1 K.B. 834. Action by a seaman to recover wages. It appeared that he shipped on board a vessel on a voyage for Port Arthur, on arriving at Yokohama the plaintiff refused to proceed on the ground that the cargo included contraband of war. A Naval Court was assembled at Yokohama at the instance of the master by the British Consul, and the plaintiff was tried and found guilty of refusing to obey lawful orders, and the Court found the plaintiff was guilty, and his plea that the carriage of contraband vitiated his contract was held to be without force, and the Court ordered the plaintiff to be discharged. Lord Alverstone, C.J., who tried the action held that the order of the Naval Court concluded the plaintiff, and he dismissed his action: and his decision was affirmed by the Court of Appeal (Barnes, P.P.D., and Farwell and Buckley, L. JJ.).