MARINE INSURANCE—CONSTRUCTIVE TOTAL LOSS—POLICY ON SHIP —VALUE OF WRECK—COST OF REPAIR.

Macbeth v. *Maritime Insurance Co.* (1908) A.C. 14x is an important decision on the question what is the proper test for ascertaining whether a loss under a policy of marine insurance is to be deemed a constructive total loss; because the House of Lords (Lord Loreburn, L.C. and Lords Robertson and Collins) have overruled the decision of the Court of Appeal in *Angel* v. *Merchants' Marine Insurance Co.* (1903) 1 K.B. 811. In this case the policy provided that the insured value £12,000 was to be taken as the repaired value in ascertaining whether the vessel was a constructive total loss. The vessel was driven on to rocks, and notice of abandonment given, and the insured claimed to recover as for a constructive total loss. It was found by Walton, J., who tried the action that the cost of repair would be £11,000 and that the value of the wreck was £3,000. The insured claimed to add the value of the wreck to the estimated cost of repairs for the purpose of ascertaining whether the loss was a constructive total loss and the House of Lords held that he was entitled to do this. Lord Loreburn, however, says the real test is whether a prudent uninsured owner would repair having regard to all the circumstances. We presume the reason why the value of the wreck should be added to the cost of repair, is this, though it is not very clearly stated in the report, viz., that in order to ascertain the cost of the repaired vessel, you must take into account what the value of the vessel is before the repairs are made, and then adding that to the cost of repairs you find that for £14,000, you have obtained a vessel which is only worth £12,000 and therefore from the prudent man's standpoint to repair a vessel in such circumstances would not be expedient or reasonable.

PRACTICE—SPECIAL LEAVE TO APPEAL TO KING IN COUNCIL—LEGISLATION REMOVING GROUND OF APPEAL AS TO FUTURE CASES.

In *Commissioners of Taxation* v. *Baxter* (1908) A.C. 214 an application was made for special leave to appeal from a decision of the High Court of Australia on the ground that that court had refused to follow a previous decision of His Majesty in Council to the effect that the Australian States had no power to impose income tax on salaries paid to federal officials. Before the application w[as] heard a statute had been