

agent . . . at the expense of the consignee." The steamer arrived, but the consignee did not take delivery, or pay freight. The shipowners thereupon placed the goods in a warehouse, with written instructions not to deliver them to anyone without written instructions, accompanied by their release from freight. The endorsees of the bill of lading sent it to the warehouseman, with the amount due for freight, and asked delivery of the goods pursuant to s. 495 (2) of the Merchants Shipping Act, 1894; but delivery being refused, this action was brought. Under the Merchants Shipping Act, s. 496, where money is deposited with a warehouseman, he is to retain it 15 days, and in the meantime the consignee may give him notice as to whether he admits all or any part of it to be due to the shipowner, and if no such notice is given, he is to pay the amount deposited to the shipowner. The action was tried by Scrutton, J., who held that the goods had not been placed by the shipowners in the warehouse, under the provisions of ss. 493-496, of the Merchants Shipping Act, 1894, and that, therefore, the owners of the goods were not entitled to delivery upon depositing the freight; and he was of the opinion that the plaintiffs were attempting to alter their contract, which was to pay "before delivery," by substituting a payment, subject to a right to examine the goods, and to make claims for deductions, if any, which they were not entitled to do.

NEGLIGENCE—PROXIMATE CAUSE OF DAMAGE—MALICIOUS ACT OF
THIRD PARTY—REASONABLE PRECAUTIONS—OVERFLOW OF
WATER FROM LAVATORY.

Richards v. Lothian (1913) A.C. 263. This was an action by the tenant of premises against the owner to recover damages for a loss occasioned by the overflow of water from a lavatory situate in a floor over the plaintiff's premises. The damage occurred owing to the malicious act of some third person plugging up the waste pipe and turning on the water in a basin. The basin was properly constructed and the waste pipe was sufficient for all reasonable purposes. The Judicial Committee of the Privy Council (Lord Haldane, L.C., and Lords Macnaghten, Atkinson, and Moulton) held, reversing the High Court of Australia, that in the absence of any finding by the jury, that the defendant had instigated the act, or ought reasonably to have prevented it, the defendant was not liable; and secondly, that his having on his premises a proper and reasonable supply of water was an ordinary and proper use of his house, and although