

to sue on it, he also held that as the defendants had taken upon themselves to procure a licence, but did not make sufficient applications therefor, and therefore had no defence to the action; but the Court of Appeal (Lord Reading, C.J., and Scrutton, L.J., and Neville, J.) while agreeing with Lawrence, J., that the plaintiff had a right to sue, disagreed with him on the question of obtaining the licence, holding that the obligation to procure the necessary licence rested on the plaintiff and not on the defendants because the contract was f.o.b. Manchester, and it was the plaintiff's duty to supply the ship and get the necessary authority to export, the information required to obtain such a licence being in their possession, and not in that of the defendants. The judgment of Lawrence, J., was therefore varied.

SALE OF GOODS — C.I.F. CONTRACT — NON-DELIVERY — TIME FOR MEASURING DAMAGES — ARRIVAL OF SHIPPING DOCUMENTS — ARRIVAL OF GOODS — "TIME OR TIMES WHEN THEY OUGHT TO BE DELIVERED" — SALE OF GOODS ACT 1893 (56-57 VICT. c. 71) s. 51 (3).

*Sharpe v. Nosawa* (1917) 2 K.B. 814. The Sale of Goods Act 1893, which is regarded as declaratory of the common law touching the matters with which it deals, by s. 51 (1) provides that where a seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages; and by s. 51 (3), it is provided that the measure of damages is *prima facie* the difference between the contract price and the market price at the time or times when they ought to have been delivered. The defendants, a firm of merchants in Japan, sold goods to be shipped to London in June, at a price including cost, freight and insurance. Shipping documents, including bill of lading and policy of insurance, relating to the last possible shipment in June from Japan, would, if sent forward with reasonable dispatch, have reached London on July 21; and the goods themselves would have arrived on August 20. The goods were not shipped, and the action was for non-delivery. The question was from what date the measure of damages ought to be computed under the statute. Atkins, J., who tried the action, held that the delivery contemplated by the contract was a constructive delivery by the delivery of the usual shipping documents, and that therefore, the date at which the shipping documents ought in due course to have been delivered, viz., July 21, was the date at which the market price must be ascertained for fixing the damages.