

MAINTENANCE OF ACTION—COMMON INTEREST—TRADE RIVALS—  
PROTECTION OF CUSTOMERS—INDEMNITY.

In *British Cash & P.C. v. Lamson Store Co.* (1908) 1 K.B. 1006 the defendants were rivals of the plaintiffs in trade and had obtained contracts of hire for their goods from three of the plaintiffs' customers, and they agreed to indemnify these customers against any claims of the plaintiffs against them for breach of contract. Two of these customers were originally customers of the defendants and the third had given an order to the plaintiffs in the belief that he was dealing with the defendants. The plaintiffs sued each of the customers for breach of contract, and in two instances recovered damages and costs, which the defendants paid under their contract of indemnity. The plaintiffs then sued the defendants, claiming damages on the ground that they had been guilty of maintenance. Ridley, J., who tried the action, gave judgment in favour of the plaintiffs for nominal damages and awarded an injunction restraining the defendants "from unlawfully upholding or maintaining actions, suits or other legal proceedings between the plaintiffs and any other person or persons"; but on appeal to the Court of Appeal (Cozens-Hardy, M.R., and Moulton and Buckley, L.JJ.) the judgment of Ridley, J., was reversed and the action dismissed on the ground that the acts complained of did not amount to maintenance, and that on the contrary the defendants had a common interest with the customers in question. Cozens-Hardy, M.R., adopts the language of Lord Abinger in *Findon v. Parker*, 11 M. & W. 675: "The law of maintenance, as I understand it, upon the modern constructions is confined to cases where a man improperly, and for the purposes of stirring up litigation and strife, encourages others either to bring actions, or to make defences which they have no right to make." but that does not in his opinion preclude the making of contracts of indemnity in proper cases, even though it may involve and, indeed, contemplate the institution of an action against the person indemnified.

PRACTICE—DISCOVERY—SHIP'S PAPERS—FIRE INSURANCE.

In *Tannebaum v. Heath* (1908) 1 K.B. 1032 the plaintiffs sued on a policy of fire insurance to recover the value of goods. The policy covered loss in transitu by sea, but the loss had in fact taken place in a store on land. Bigham, J., assuming that the action was an ordinary policy of marine insurance made an order