(Collins, M.R., and Romer, L.J.,) held that he was right. But this decision would appear not to be applicable to the practice in Ontario, where payment into Court and a denial of liability is allowed even in actions of libel: see Rules 419, 420.

SHIP—BILL OF LADING—EXCEPTIONS—WARRANTY OF SEAWORTHINESS.

Borthwick v. *Elderslie S.S. Co.* (1904) 1 K.B. 319, was an action by the holders of a bill of lading to recover damages for damage to the goods (frozen meat) occasioned by the ship being tainted with carbolic acid. The bill of lading contained a clause exempting the shipowners from liability from failure or breakdown of machinery, insulation or other appliances, refrigerating or otherwise, or from any cause whatever, whether arising from a defect existing at the commencement of the voyage, or at the time of the shipment of the goods or not, or for any act, negligence, default or error of judgment of the master or officers of the ship, or "from any other cause whatsoever." It also contained a clause exempting the shipowners from liability for damage occasioned by any cause beyond the control of the owners or charterers, or from any defects, latent or otherwise, in hull, tackle, etc., whether or not existing at the time of the goods being loaded, or the commencement of the voyage, "if reasonable means have been taken to provide against such defects or unseaworthiness." On a previous trip the ship had carried horses, and a large quantity of carbolic acid had been used for disinfecting purposes before the meat was shipped When the ship arrived at her destination the meat was tainted with carbolic acid. Walton, J., who tried the action, held that the damage arose from the condition of the ship at the com mencement of the voyage and that if proper care had been taken in cleansing the ship the damage would not have occurred, but he held that the defendants were exempt from liability under the first clause and dismissed the action. On appeal, however, the Court of Appeal (Lord Alverstone, C.J., and Collins, M.R., and Romer, L.J.,) reversed his decision on the ground that the loss was due to the unseaworthiness of the vessel, and that the implied warranty of seaworthiness must be held not to be excepted by the conditions of a bill of lading unless it plainly appears that it was intended to except it; that in the present case it did not so appear; and that the general words of the exemption clauses were restricted to matters ejusdem generis as the preceding words, viz., failure or breakdown of machinery, etc.