

## ENGLISH CASES.

## EDITORIAL REVIEW OF CURRENT ENGLISH DECISIONS.

(Registered in accordance with the Copyright Act.)

**PRACTICE—COSTS—LIBEL—DEFENCE OF JUSTIFICATION AND PRIVILEGE.**

*Brown v. Houston* (1901) 2 K.B. 855, was an action of libel in which the defendant set up as a defence justification and privilege. The jury found for the plaintiff on the defence of justification, but they also found that the defendant acted without malice, and he succeeded on the ground of privilege, and the action was consequently dismissed with costs, but the plaintiff was awarded such costs as related exclusively to the defence of justification. On taxation of the costs, the taxing officer refused to allow the plaintiff any costs of witnesses, because they were not called exclusively on the defence of justification. Bucknill, J., affirmed his ruling, and the Court of Appeal (Smith, M.R., and Williams and Stirling, L.JJ.,) dismissed an appeal from Bucknill, J., on the ground that the plaintiff's witnesses were not called exclusively on the question of justification, but that their evidence was also material on the question of malice.

**GENERAL AVERAGE—DAMAGE TO SHIP ON OUTWARD PASSAGE IN BALLAST—LIABILITY OF CHARTERED FREIGHT TO CONTRIBUTE TO LOSS.**

In *S. S. Carisbrook Co. v. London & P. M. & G. Ins. Co.* (1901) 2 K.B. 861, the plaintiffs sued on a policy of marine insurance. The vessel in question was chartered by the plaintiffs to proceed to a foreign port, there load a cargo and bring it to England, the chartered freight being payable on delivery of the cargo. On her outward passage, in ballast, she ran aground and sustained damage which was repaired, and she proceeded to her destination, loaded the cargo and brought it home. An average statement of the repairs to the ship was prepared, but the adjusters omitted to make the chartered freight contribute. The defendants contended that this was erroneous, and Mathew, J., so held, following *Williams v. London Assurance Co.*, 1 M. & S. 318; 14 R.R. 441, notwithstanding the adverse comments of text writers, cited on behalf of the plaintiff.