against the defendants, but there could be only one assessment and one judgment against them all, and, moreover, that the damages assessed were excessive. The majority of the Court of Appeal decided to follow the judgment of the Judicial Committee in *Macintosh* v. *Dunn* (1908) A.C. 390, on the question of privilege, whereas Bray, J., inclined to the view of the American courts and thought the case governed by *Waller* v. *Loch*, 1881 7 Q.B.D. 619. The law on the subject is very elaborately discussed by the members of the Court of Appeal.

SALE OF GOODS—AUCTION—MISLEADING CATALOGUE—MISTAKE OF BIDDER AS TO LOT OFFERED FOR SALE—ACTION FOR PRICE —PARTIES NOT AD IDEM.

Scriven v. *Hindley* (1913) 3 K.B. 564. This was an action to recover the price of goods sold at auction. The defendant set up that he had made a mistake as to the goods being offered for sale. The auctioneers were instructed to offer for sale certain bales of hemp and tow. The defendant intended to buy hemp, and when the auctioneer was offering bales having the same marks as the hemp he made a bid therefor which would be an extravagant price for tow and the lots were at once knocked down to him. He afterwards discovered that the goods knocked down to him were tow and not hemp and he repudiated the contract. The jury found that the auctioneer intended to sell tow and the defendant intended to buy hemp, and that the form of the catalogue and the negligence of the defendant's manager in not more closely examining the samples at the show room and identifying them with the lots in the catalogue, contributed to the mistake. Laurence, J., on these findings held that the parties were never *ad idem* as to the subject matter and therefore that there was no contract of sale, and that the finding as to negligence was immaterial as the defendant owed no duty to the plaintiffs to examine the samples.

TRADE MARK — REGISTRATION—DISTINCTIVE MARK — INITIAL LETTERS—TRADE MARKS ACT, 1905 (5 EDW. VII. c. 15), s. 3; s. 9(5)—(R.S.C. c. 71, s. 11).

The Registrar of Trade Marks v. *Du Cros* (1913) A.C. 624. This was an appeal from the decision *In re Du Cros* (1912) 1 Ch. 644 (noted ante, vol. 48, p. 387). The question was whether the initial letters "W. & G." in fancy script were registrable as a trade mark. Eve, J., held that the mark was not distinctive and was not registrable, but the Court of Appeal allowed the