

15, 1901, and that, on the assumption that a fraction of a day was to be taken into consideration, the time allowed for discharging ended at 9 a.m. on Saturday, July 27. The discharge was not in fact completed till 3 p.m. on July 29. Bigham, J., who tried the case, held that the demurrage began to run at 9 a.m. on July 27, and not from the end of that day as claimed by the Crown, and with this the Court of Appeal (Collins, M.R., and Romer and Mathew, L.J.J.) agreed, being clear that the terms of the charter party required the fraction of a day to be taken into account in estimating the time allowed for discharging the cargo.

**PRACTICE**—SET OFF OF DAMAGES AND COSTS—JUDGMENTS FOR COSTS IN INDEPENDENT LITIGATIONS—JUDGMENT FOR AND AGAINST A PARTY IN DIFFERENT CAPACITIES—RULES 989, 1002 (21)—(ONT. RULES 1164, 1165.)

*David v. Rees* (1904) 2 K.B. 435. An application was made by the plaintiff in this case to set off the damages and costs recovered by him in this action against costs ordered to be paid by him in certain garnishee proceedings subsequently taken on the judgment to a garnishee. This garnishee was one of the defendants in the action and liable for the damages and costs recovered by the plaintiff, but he was made a garnishee as being a joint trustee with others of a fund sought to be attached, and the attaching order was set aside and the plaintiff ordered to pay the costs of the garnishee in question. The plaintiff, under Rules 989 and 1002 (21) (Ont. Rules 1164, 1165), claimed that the costs he was ordered to pay should be set off pro tanto against the damages and costs recovered by him in the action, but the Court of Appeal (Collins, M.R., and Stirling, L.J.) held that the action and subsequent garnishee proceedings were distinct and separate litigations and the Rules did not authorize the set off claimed by the plaintiff, and the application was therefore refused.

**PRACTICE**—CHARGING ORDER—"STOCK OR SHARES" OF A COMPANY—1 & 2 VICT. C. 110, S. 14—(R.S.O. C. 324, S. 21).

In *Sellar v. Bright* (1904) 2 K.B. 446, the plaintiff, having recovered judgment against the defendants which remained unsatisfied, applied for a charging order under 1 & 2 Vict. c. 110, s. 14 (see R.S.O. c. 324, s. 21) for a charging order on certain debentures of a limited company standing in the name of the defendants. Phillimore, J., made the order, but on the appeal of