

SHIP—BILL OF LADING—CONDITION LIMITING LIABILITY—LOSS DUE TO NEGLIGENCE.

*Baxter's Leather Co. v. Royal Mail SS. Co.* (1908) 1 K.B. 796 was an action to recover damages against a shipowner for loss of the plaintiffs' goods by reason of the defendants' negligence. The bill of lading expressly stipulated that the ship-owners should "under no circumstances" be liable for any goods of whatever description "beyond the amount of £2 per cubic foot for any one package." The defendants contended that this was the limit of their liability for the goods in question, notwithstanding that they had been lost through negligence on their part, and Bigham, J., held that they were right.

PRACTICE—STAYING OF ACTION—ABUSE OF PROCESS—CAUSE OF ACTION ARISING OUT OF JURISDICTION—SUBJECT MATTER OF ACTION OUT OF JURISDICTION—DEFENDANTS ORDINARILY RESIDENT OUT OF JURISDICTION—SERVING DEFENDANT OUT OF JURISDICTION AS BEING NECESSARY PARTY.

*In re Norton, Norton v. Norton* (1908) 1 Ch. 471 was an action for an account against the trustees of a marriage settlement for an account. The settlement was made in India, and the property of the trust was situate there and all the defendants though having an English domicile were ordinarily resident in India. The plaintiff had been separated from her husband (one of the trustees) and had since 1902 been living in France. Two of the defendants came on a visit to England, and while there the plaintiff came over from France and commenced the action against them; and she then applied for an order for leave to serve Brodie, the third trustee in Calcutta, on the ground that he was a necessary party to the action against the other defendants. The husband applied to stay all proceedings on the ground that they were vexatious and oppressive, which Eady, J., refused. Eady, J., however, refused to allow service on the trustee in India, on the ground that the claim was for an account only, and it was admitted by plaintiff's counsel that the trustee sought to be served had not received any property as trustee of the settlement. The orders were appealed from. The Court of Appeal (Williams, Farwell and Kennedy, L.JJ.) held that the property of the trust being in India, and the defendants being ordinarily resident there, it was oppressive and vexatious to bring the action in England, and it was accordingly stayed, and the order refusing leave to serve the defendant in India was, of course, affirmed.