

held, that there had been a change of destination sufficient to entitle the lessor to obtain the rescission of the lease.—*Pignolet & Brosseau*, Cross, Baby, Bossé, Cimon, JJ. (Cross, J. diss.) March 26, 1891.

Pleading—Vagueness and insufficiency of allegations of demand—Exception to the form—Appeal.

Held: 1. Where the right of action is not denied by the defendant, but he complains of the vagueness and insufficiency of the allegations of the declaration, it is matter for an exception to the form, and not for a demurrer, or for a motion for particulars.

2. An interlocutory judgment rejecting an exception to the form in such case is susceptible of appeal, being a matter which cannot be remedied by the final judgment. *McGreevy & Beauceage*, Dorion, C. J., Baby, Bossé, Doherty, Cimon, J. J., May 23, 1891.

COURT OF APPEAL.

LONDON, March 21, 1891.

Before LORD ESHER, M.R., BOWEN, L.J.,
FRY, L.J.

STEINMAN v. ANGLIER LINE, (26 L.J. N.C.)

Ship and shipping—Contract of Carriage—Liability of shipowner—Exceptions in bill of lading—'Thieves of whatever kind whether on board or not or by land or sea'—Theft by servants of shipowner.

Appeal from the judgment of SMITH, J., at the trial of the action.

The action was brought to recover damages for the non-delivery of goods shipped on board the defendants' ship under a bill of lading. The goods in question, after being put on board, were stolen by stevedore's men employed to stow the cargo, the stevedore being appointed by the charterer, but paid by and in the service of the ship, and the defence was that by the terms of the bill of lading the defendants were not liable for the acts of robbers and thieves.

The exception in the bill of lading exempted the defendants from liability for loss or damage arising from (amongst other things) 'pirates, robbers, or thieves of whatever kind, whether on board or not or by land or sea.'

SMITH, J., held that the case did not come

within the exception, and gave judgment for the plaintiffs.

The defendants appealed.

Their LORDSHIPS affirmed the judgment of SMITH, J. They were of opinion that if it was intended to relieve the shipowner from liability for thefts committed by persons in the ship's service, clear and explicit language to that effect should have been used, and that the mere introduction into the list of exceptions of the words 'thieves of whatever kind &c.' did not do so, it being the duty of the ship owner by himself and his servants to do all he could to avoid the excepted perils.

Appeal dismissed.

SUPREME COURT OF NEWFOUNDLAND.

INTERNATIONAL LAW—PREROGATIVE OF CROWN
—ACT OF STATE—PERSONAL RESPONSIBILITY
OF AGENT OF CROWN.

In the case of *James Baird and another v. Sir Baldwin Walker, Bart.*, the following judgment was on March 18, 1891, delivered by Mr. Justice Sir Robert Pinsent:

The statement of claim in this action charges the defendant with having, in June last, wrongfully entered the plaintiffs' messuage and premises, situate at Fishel's River, in Bay St. George, and with taking and retaining possession of the plaintiffs' lobster factory and of a large quantity of gear, materials, and implements appertaining to the same, and with having prevented the plaintiffs from carrying on the business of catching and preserving lobsters; and the plaintiffs claim \$5,000 damages, and they pray for an injunction.

The defendant, amongst other matters, pleads in effect that he was captain of one of Her Majesty's ships employed during the last season on the Newfoundland fisheries, and was senior officer on the station; that the Lords Commissioners of the Admiralty, by command of Her Majesty, committed to him 'the care and charge of putting in force and giving effect to an agreement embodied in a *modus vivendi* for the lobster fishery in Newfoundland during the said season, which as an act and matter of State and public policy had been by Her Majesty entered into with the Government of the Republic of France.'