
REVIEW OF CURRENT ENGLISH CASES.

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LIBEL — PUBLICATION — COMMUNICATION POSTED IN OPEN ENVELOPE.

Huth v. Huth (1915) 3 K.B. 32. This was an action brought by four children against their father for an alleged libel contained in a communication sent to the plaintiff's mother by the defendant in an open envelope. The only evidence of publication offered by the plaintiff appears to have been the fact that the butler at the house where the plaintiffs were living with their mother had, out of curiosity, taken the communication out of the envelope and read it, and had then restored it to the envelope and placed it on the breakfast table. Darling, J., who tried the action, dismissed it on two grounds: (1) that there was no evidence of publication; and (2) that the communication was not, in fact, libellous. The Court of Appeal (Lord Reading, C.J., Eady, L.J., and Bray, J.) agreed with him on the first ground and expressed no opinion on the second.

CHARTER PARTY—CONSTRUCTION—PENALTY CLAUSE—LIMITATION OF LIABILITY.

Wall v. Receriaktiebolaget Luggerde (1915) 3 K.F. 66. In this case the construction of a clause in a charter party was in question. The clause provided "Penalty for non-performance of this agreement proved damages not exceeding estimated amount of freight," and the question the Court was called on to determine was, whether this clause amounted to a limitation of liability, or whether the party complaining of a breach might, notwithstanding its terms, recover the actual damages sustained, although they exceeded the estimated amount of freight. Bailhache, J., who tried the action, held that the clause in question was merely the usual penalty clause "writ large," because "proved damages" is all that the party claiming to enforce the penalty could recover under the statute 8-9 W. 3, c. 11 (see Ont. Jud. Act, s. 125), and if the plaintiff sued for the penalty, the amount of it would be limited by the clause; but he held that the plaintiff was not bound to sue for the penalty, but might bring an action, as in this case, for breach of the covenant, in which he might recover the damages actually sustained, although they exceeded in amount the estimated freight.