

those who have been successful under such conditions.

LORD SHAW—In this case a slight injury was done to the steanship "Nelson" by drawing a rivet eyehole in her starboard quarter out of its position and into the body of the ship. That was a slight injury, the responsibility for which is acknowledged by the defendants, and that has been the subject of no litigation. Following it, however, another and more serious occurrence took place, viz., the sinking of the vessel. In these cases two principles, too often put separately but really conjoined, may be stated, viz., that the defendants are liable for the damage which is the natural and direct consequence of their wrongful act; that would cover the slight injury to which I referred. The second principle is, that the defendants are not liable for any further damage which could have been avoided or minimised by the exercise of reasonable care on the part of the plaintiffs. This is really not a separable proposition from the other in the sense of being independent of it; it is only a development or corollary of the former proposition, because the latter further damage is caused not as the natural and direct consequence of the defendants' act but by reason of the neglect of that care which was reasonable in the circumstances on the part of the owners of the "Nelson." That neglect is found to be established in fact. It led—and casually considered it alone led—to the sinking of the ship, and accordingly the responsibility for it cannot be placed upon the defendants. These two things have been properly distinguished by the owners of the "Egyptian" throughout. Their offer of compensation, limited to the slight injury which was the result of their negligence, has been justified by the result of this litigation, but the further damage now claimed has not been found due. In my opinion this result is correct, as the further damage fell on the plaintiffs' ship by reason of the plaintiffs' own neglect already referred to. On the matter of costs, I agree that the attitude taken very properly by the respondents' counsel at your Lordship's Bar has enabled us to do what, underneath all these transactions, may be considered to be a substantial act of justice.

LORD MERSEY—I concur.

Appeal dismissed.

Counsel for Appellants—Laing, K.C.—Balloch. Agents—Woodhouse & Davidson, Solicitors.

Counsel for Respondents—Batten, K.C.—Bateson. Agents—Deacon & Company, Solicitors.

## HOUSE OF LORDS.

Thursday, April 28, 1910.

(Before the Lord Chancellor (Loreburn),  
Lords Atkinson and Mersey.)

CATT v. WOOD.

(ON APPEAL FROM THE COURT OF APPEAL  
IN ENGLAND.)

*Friendly Society—Friendly Societies Act 1896 (59 and 60 Vict. cap. 25), sec. 68—Expulsion of Member—Action of Damages for Wrongous Expulsion—Competency—Jurisdiction.*

The Friendly Societies Act 1896, section 68 (1), enacts—"Every dispute between a member . . . and the society or branch, or an officer thereof, . . . shall be decided in manner directed by the rules of the society or branch, and the decision so given shall be binding and conclusive on all parties without appeal, and shall not be removeable into any court of law or restrainable by injunction, and application for the enforcement thereof may be made to the County Court."

The appellant was a member of a friendly society and had a dispute with them as to his right to sick pay. The arbitration committee decided against his claim. The appellant appealed successively to the executive committee and the district arbitration committee of the head district, who also disallowed his claim, and under the rules ordered him to pay the costs. He refused to pay, and on the expiry of a year he was suspended and then expelled, all in accordance with the rules. He brought an action against the society for injunction and damages.

Held that the proceedings of the society complained of were not *ultra vires*, and being in accordance with the rules of the society were not within the jurisdiction of a court of law.

*Andrews v. Mitchell* (1904, 42 S.L.R. 474, [1905] A.C. 78) distinguished.

The appellant raised an action of injunction and damages against the respondents under circumstances stated *supra* in rubric and in the judgment of the Lord Chancellor.

Judgment against the appellant was affirmed by the Court of Appeal (VAUGHAN WILLIAMS, FARWELL, and KENNEDY, L.JJ.).

At the conclusion of the arguments their Lordships gave judgment as follows:—

LORD CHANCELLOR (LOREBURN)—I am glad to learn from the learned counsel who appeared for the appellant in this case that he does not complain of any hardship if he be wrong in the legal contentions which he has advanced before this House. I must say that I do not share any of the doubts which seem to have been expressed in the Courts below as to the decision at which your Lordships should arrive. There is no

case of misconduct alleged against those who administered this society, such as was acted upon (I speak of misconduct in its technical sense) in the case of *Andrews v. Mitchell*, [1905] A.C. 78, 42 S.L.R. 474. This is a case in which the appellant, who was a member of the friendly society, made a claim under General Law 42, sub-section 2, against the society, and he made it on behalf of his son who was mentally afflicted. Under the General Laws the appellant, who was a relative, the relative recognised by the society as acting on behalf of the son, was entitled to be paid the moneys due to the son, and was also a member of the society. He claimed on a right given to him as a relative, but on behalf of his son who was not able to make the claim for himself. The society having decided against him on a certain point, which need not be specified, treated him as a person who was a party to the proceedings under General Law 68, sub-section 4, and thereupon charged him with expenses as a party. Now that was decided in this domestic forum against the appellant, who was then a member of the society himself. He refused to obey the direction of that domestic tribunal, and being a member he was then suspended under General Law 70, 1 (a). I cannot agree that there was any duty under the Act of 1896 to enforce the decision of the society by going to the County Court. I think that the society was entitled to use against a member such remedies as the General Laws gave them. They exercised this right; they suspended the appellant, and his suspension was followed in due course by expulsion for not complying with the order which had been made. To my mind it is not necessary to pronounce in regard to various points which have been raised, and, indeed, I do not myself think that it is necessary for us to come to the conclusion that in point of law we should have said the same thing that the society said, but I do not wish to suggest that either of the decisions of this society which have been complained of were invalid in law or contrary to fairness, but even if they were erroneous in point of law it seems to me that your Lordships and the courts below have no authority at all to interfere. Section 68 of the Friendly Societies Act 1896 enacts that "Every dispute between a member or person claiming through a member or under the rules of a registered society or branch, and the society or branch or an officer thereof, or any person aggrieved who has for not more than six months ceased to be a member of a registered society or branch, or any person claiming through such person aggrieved and the society or branch or an officer thereof, shall be decided in manner directed by the rules of the society or branch, and the decision so given shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction." Now, there can be no doubt that upon both the occasions on which decisions were made by the society in this case there was

a dispute between the appellant and the society. The appellant was a member; the appellant was also a person claiming under the rules of a registered society against the society, and it seems to me that we have the most express enactment forbidding courts of law from interfering in a matter of that kind, and I must say myself that I think that it is most necessary that we should obey loyally the enactments which are made in order to prevent multitudinous litigation, and to give effect to the decisions, if they be honest and not open to the charge of misconduct, of those who are deciding, rightly or wrongly, within the jurisdiction which is confided to them by the laws of this country. A question was raised with regard to the decision of the Court of Appeal in *Palliser v. Dale*, [1897] 1 Q.B. 257, and it was suggested that as this appellant had ceased to be a member by virtue of the expulsion before this litigation commenced he was exempt from the restrictions imposed upon him by the section of the Act of Parliament which I have just read. I think that the short answer to that contention is that the appellant cannot succeed in this litigation unless he can show that the two decisions of the society, or at all events one of them, was bad in law; and that whereas while he was a member he could not have disputed them in a court of law, now that he has been expelled a fresh right arises to dispute those questions in a court of law and that the Court thereby obtains jurisdiction. I cannot assent to that view, because I think that these disputes which are the substance of the litigation here were disputes which fell within the jurisdiction of the domestic forum and have there been adjusted. Another point was made by the learned counsel for the appellant to the effect that these rules are *ultra vires*—that is to say, that they are not such as can derive authority from the Act of Parliament. I do not think that it is so. In my opinion they are part of the necessary, or at all events of the permissible, machinery to preserve harmony in the working of these statutes.

LORD ATKINSON—I agree.

LORD MERSEY—I agree.

Appeal dismissed.

Counsel for Appellant—A. E. Hughes—J. Simonds. Agents—Russell & Arnholz, Solicitors.

Counsel for Respondents—M. Lush, K.C.—J. Leslie. Agents—W. J. & E. H. Tremellen, Solicitors.