

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
James King v. Phillip William Skynner
Miles, Edward Peach, William Miles and
Henry Cruger Miles, from the Supreme
Court of South Australia, delivered 23rd
November 1876.*

Present:

SIR JAMES W. COLVILLE.

SIR BARNES PEACOCK.

SIR MONTAGUE E. SMITH.

SIR ROBERT P. COLLIER.

THE case has been very ably argued by Mr. Mortimer on behalf of the Appellants, and everything that could be urged has been urged by him on their behalf. Their Lordships see no reason to think that the judgment of the Court below was erroneous; on the contrary, they think that the majority of the Judges came to a right conclusion. No doubt Henderson, at Toorale, where the goods fell into the water, was authorised to act, and did act, for the benefit of all parties concerned. In so acting he thought the best course that he could adopt was to send the goods which were saved to Goolwa, as the other goods had been sent; and accordingly they were shipped and sent to Goolwa, and were, by the bill of lading, made deliverable to Messrs. Aeraman and Co., they being agents of the Plaintiffs. When the goods arrived, Messrs. Aeraman accepted them, and sent them on to London for the purpose of being sold on behalf of the Plaintiffs. The goods were sold by Messrs. Hughes in London; and

the account sales show that they were sold on behalf of the Plaintiffs. Fortunately for the Plaintiffs, the value of wool rose before the goods arrived in England; but if the value had fallen, the loss would have fallen upon the Plaintiffs. It appears, therefore, to their Lordships that in estimating the damages the value of the goods which were saved must be taken at the amount which they would have fetched if sold at Goolwa, the port at which they were delivered over to the Plaintiffs' agents, deducting the 300*l.* which were the expenses incurred by Mr. Henderson in making the salvage. Those were the damages which the majority of the Court thought the Plaintiffs were entitled to recover, and their Lordships think that their judgment was correct.

Under these circumstances they will humbly recommend Her Majesty to affirm the judgment of the Court below with the costs of this Appeal.