until the road was restored in its entirety to the proper and normal condition so that it could be properly and without undue risk traversed by the public at large, it seems to me that it would be idle to say that you could put your finger upon any particular point of time and say that the liability of the sewer authority began then and ended then, and then it was handed over to an authority which is not responsible for nonfeasance, and if that authority did nothing nobody is responsible at all. That is a process of reasoning to which I for one will not assent. The moment the structure of the road is interfered with, and it comes within the ambit of the operation commenced by the person who is entitled to interfere with the structure of the road, then until that road is restored into the condition in which it was before that alteration of its structure began it seems to me the person who interfered with it is responsible for a misfeasance. I do not deny that there is considerable difficulty in following the findings of the jury. For aught I know to the contrary the learned counsel who has last addressed us may be right in the conjecture which he has formed as to the influences which guided the jury in coming to their findings. I have nothing to do with that provided that the findings stand (and there is no application here and no desire, I should think, on either side for a new trial) and provided that the two learned Judges in the Court of Appeal are right in construing the findings as they have done, and, although I think that a different view might be entertained, I certainly do not feel myself able to differ from their interpretation of those findings. Under those circumstances it becomes an ordinary case of interference with the road, the non-return of it into its normal condition, and an accident happening in the course of events which but for that alteration in the normal condition of the road would not have happened. That seems to me, therefore, to be a sufficient chain of events to show that the person who interfered with the normal condition of the road is responsible for it until its return to a safe condition. It was not restored to the normal condition when the accident occured, and therefore I think that the plaintiff is entitled to maintain his verdict. Under those circumstances I move your Lordships that this appeal be dismissed with costs.

LORD MACNAGHTEN—I am of the same opinion. Notwithstanding the able argument which we have heard this morning, I think that what was done must be regarded as one operation and by one body. So regarding it, I think that there was more than nonfeasance; there was misfeasance. I agree that the judgment ought to be affirmed.

LORD LINDLEY—I am of the same opinion. I have no doubt myself, if you look at it broadly and without those subtle distinctions which have been suggested to us, that this is a case of misfeasance and not of nonfeasance. There were three breaches of duty, so far as I can make out, or at all events there were three acts done—not merely omissions. There was breaking up the road and putting it into such a state that it was not fit for traffic; there was restoring the road and not restoring it so as to be fit for traffic; and there was leaving the cartload of rubbish there which it was the duty of someone on the part of the defendants to clear away (I do not say an actionable duty), and that was not done. Three wrongs do not make one right. It is more than omission. It is not as if they left the road alone; they did nothing of the sort. They first began by putting it out of a proper state of repair, and they never put it back into a proper state of repair.

Judgment appealed against affirmed and appeal dismissed.

Counsel for Plaintiff and Respondent—Montague Lush, K.C.—E. Lewis Thomas. Agent—Graham Gordon.

Counsel for Defendants and Appellants—J. Eldon Bankes, K.C.—R. V. Bankes. Agent—H. Mansfield Robinson, Town Clerk of Shoreditch.

HOUSE OF LORDS.

Monday, February 15, 1904.

(Before the Lord Chancellor (Halsbury) and Lords Macnaghten, Shand, and Lindley.)

CORPORATION OF EASTBOURNE *v.* ATTORNEY-GENERAL.

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

Revenue — Stamp-Duty — "Property" — Duty Payable on Purchase of Property under Statutory Authority—Finance Act 1895 (58 *and* 59 *Vict. c.* 16), *sec.* 12.

Section 12 of the Finance Act 1895 enacts that where by virtue of an Act of Parliament any person is authorised to purchase property, he shall within three months after the completion of the purchase produce to the Commissioners of Inland Revenue an instrument of conveyance of the property duly stamped with the *ad valorem* duty payable upon a conveyance on sale of the property.

Held that the word "property" in this section includes both heritable and moveable property, and that duty is payable in respect of both.

Section 12 of the Finance Act 1895 enacts —"Where after the passing of this Act, by virtue of any Act, whether passed before or after this Act, either (*a*) any property is vested by way of sale in any person or (*b*) any person is authorised to purchase property, such person shall within three months after the passing of the Act or the date of vesting, whichever is later, or after

the completion of the purchase, as the case may be, produce to the Commissioners of Inland Revenue a copy of the Act printed by the Queen's printers of Acts of Parliament, or some instrument relating to the vesting in the first case, and an instrument of conveyance of the property in the other case duly stamped with the *ad valorem* duty payable upon a conveyance on sale of the property, and in default of such production, the duty, with interest thereon at the rate of 5 per cent. per annum from the passing of the Act, date of vesting, or completion of the purchase, as the case may be, shall be a debt to Her Majesty from such person."

On 19th April 1899 the Eastbourne Corporation and the Eastbourne Electric Light Company, Limited, entered into a contract of purchase and sale of the undertaking of the company, which consisted of both heritable property, such as buildings and moveable property, such as goods, wares, and merchandise.

The contract was sanctioned by the Electric Supply Order 1899, and the purchase was carried out. The purchase money paid by the Corporation to the company was £88,749, of which £37,939 was paid in respect of moveable property.

The Corporation contended that stamp-duty under section 12 of the Finance Act 1895 was payable by them only in respect of the heritable property, which could not be transferred without a written conveyance, but not in respect of the moveable property, which could be transferred without writing by delivery. On the other hand, it was contended by the Attorney-General on behalf of the Crown that stamp-duty was payable on the whole purchase money.

The question was brought before the King's Bench Division by means of a special case stated by consent in the matter of an information on behalf of the Crown, and the Court (KENNEDY and PHILLIMORE, JJ.) decided in favour of the Crown that the duty was payable on the whole of the purchase money.

On appeal the Court of Appeal (COLLINS, M.R., STIRLING and MATTHEW, L.JJ.), affirmed the judgment.

The Corporation of Eastbourne appealed.

At the conclusion of the arguments for the appellants their Lordships gave judgment without calling on counsel for the respondents.

LORD CHANCELLOR — We have had a very long and ingenious argument on this question, which seems to me to be a very plain one. I certainly do not mean to go through all the different and ingenious hypotheses which have been put forward in order to show that the plain words of the Act of Parliament may be cut down and reduced to an absurdity. I think, so far as there is any argument at all, that the whole question turns upon the word "conveyance," and, although with some hesitation and a considerable amount of circumlocution, the learned counsel has addressed to us what I must admit to be a learned and ingenious argument, it simply comes to this—That the statute is intended in its operation to apply only to land, or what would be equivalent to land in its natural sense. But the whole of that argument seems to depend upon the use of the word "conveyance," which he says only means, according to the technical view of the question, a conveyance of land or realty in some form whether it be land or not. My answer to that is that it is not true. The word "conveyance" means what it says. It conveys any property. I find that Wharton in his Law Lexicon defines it as "an instrument that transfers property from one person to another." That is all; and although it may be perfectly true to say that where you are dealing with personal property it may pass, and does pass, completely by mere delivery, it is a very illogical consequence of that proposition to suggest that it may not pass in any other way, and that you may not convey it by an ordinary conveyance. I think you may. I think that really disposes of the whole argument. When I look at the statute itself and see what it does, I am content to apply it to the particular facts with which your Lordships have to deal. It seems to me that it would be impossible to say, having regard to the particular facts with which your Lordships have to deal, that the case is not included in the language of the statute. We have heard a great deal about ambiguity, about confusion, and about alternative constructions, but when I apply the language of the statute to the transaction which is engaging our attention it appears to me to be as clear as possible that in the ordinary natural meaning of the words therein employed the statute does apply to this transaction. I decline to go into hypotheses about other cases in which it might be supposed that this language would be too wide, and would include something else. It is enough for me to say that, as applicable to this particular transaction, the words seem to me to be absolutely clear, without confusion, and without any alternative construction at all, and to apply literally and strictly to the transaction in question. For these reasons I move your Lordships that the judgment appealed from be affirmed, and the appeal dismissed with costs.

LORD MACNAGHTEN—I am of the same opinion.

LORD SHAND—I also am of the same opinion. It appears to me that the very purpose of the Act of 1895 was to enlarge the subject of taxation, so that personal property bought by sale should be liable to duty just as heritable property was previously liable. The Act, I think, succeeded in its purpose, and I agree in the opinions of their Lordships in the Court below, and with the Lord Chancellor and Lord Macnaghten, that the judgment must be affirmed and the appeal dismissed.

LORD LINDLEY—I am of the same opinion. I think that the case becomes absolutely clear if you read the section shortly, leav-

ing out the words which are not applicable to the present case. The section runs thus—"Where (after the passing of this Act), by virtue of any Act (whether passed before or after this Act), any person is authorised to purchase property, any such person shall (within three months after the completion of the purchase) produce to the Commissioners of Inland Revenue an instrument of conveyance of the property"—that is, of the property which the purchaser is authorised by an Act of Parliament to purchase, "duly stamped with the *ad valorem* duty payable upon a conveyance on sale of the property. Now, what is that? What is the property of which an instrument of conveyance is to be produced? And what is the property the value of which is to govern the *ad valorem* stamp? It is obviously the property which the purchaser is authorised by an Act of Parliament to purchase. I think it plain beyond all question that this Act was not intended to affect ordinary purchases made in the ordinary course of business. It was confined, and was intended to be confined, to purchases authorised by some special Act of Parliament, expressly authorised, the property, if not accurately defined, being at all events described in such Act of Parliament. That gets rid of the whole difficulty. There is no ambiguity about it at all. Every word in this section has its natural meaning, and requires no forced construction whatever. The whole fallacy of the argument on behalf of the appellants appears to me to be this—That because personal chattels pass, or can pass, by delivery without any instrument at all you cannot have an instrument of conveyance for them. That is not the case. In this case the Act of Parliament is addressed to cases where an instrument is required, and being required it must be stamped. The little difficulty, if there is any difficulty about it, comes entirely from not seeing that it does not apply to ordinary purchases in the ordinary course of business but to special purchases specially authorised.

Judgment appealed against affirmed and appeal dismissed.

Counsel for the Appellants—Danckwerts — Ritchie Macoun. Agents — Sharpe, Parker, Pritchards, Barham, & Lawford, for H. W. Fovargues, Town-Clerk of Eastbourne.

Counsel for the Respondents—The Solicitor-General (Sir E. Carson, K.C.)—Rowlatt. Agent—Sir F. C. Gore, Solicitor of Inland Revenue.