

Mouse's Case
12 Co. Rep. 63, 77 Eng. Rep. 1341 (K.B. 1609)

In an action of trespass brought by Mouse, for a casket and a hundred and thirteen pounds, taken and carried away, the case was: the ferryman of Gravesend took 47 passengers into his barge, to pass to London; and Mouse was one of them; and the barge being upon the water, a great tempest happened and a strong wind; so that the barge and all the passengers were in danger to be drowned, unless a hogshead of wine and other ponderous things were cast out for the safeguard of the lives of the men.

It was resolved per totam Curiam, that in case of necessity, for the saving of lives of the passengers, it was lawful to the defendant, being also a passenger, to cast the casket of the plaintiff out of the barge, with the other things in it.

The first day of this term, this issue was tried, and it was proved directly that if the things had not been cast out of the barge, the passengers would have drowned. They were ejected, some by one passenger, and some by another; and upon this [claim for damages] the plaintiff was nonsuit. . .

The meaning of some ancient terms:

Action of trespass: An ancient legal claim that the defendant interfered with the person or property of the plaintiff, causing plaintiff injury or loss.

Casket: An ornamental box, used for holding valuable items.

A hundred and thirteen pounds: Pounds sterling, the currency.

Gravesend: A town twenty-one miles from central London, located on the Thames river, which passes through London.

Hogshead: A large barrel.

Per totam Curiam: A latin phrase that means "by the whole Court."

Nonsuit: a court order dismissing a case, because of a failure of law or evidence.