

# Law in 101 words

Snippets from The Reduced Law Dictionary by **Roderick Ramage**



## De minimis non curat lex

This principle does not prevent Lex Autocentres from repairing your Mini, but expresses the legal principle that the law does not concern itself with trifling matters. Example 1. In *Luttenberger v North Thoresby Farms* (1992) the omission of £8.40 from the payment of rent of £15,264, would have been ignored, had the payment been on time. Example 2. By the EC regulation of 15 December 2006 (de minimis aid), Art 2, aid to any one undertaking not exceeding €200,000 over three years, or €100,000 for a road transport undertaking, is exempt from the notification requirement of article 88(3) of the Treaty.

## Exploding boat

Mr Ward bought a motor yacht for £269,000, which exploded 15 minutes after he had taken possession. He sued, submitting that the boat was not fit to go to sea and that the sale was in breach of SOGA 1979, s14(2). The defendant replied that the burden of proof had not been satisfied and contested the identity of the seller. In *Ward v MGM Marine* (2012) the court found for Mr Ward and awarded damages. There was no evidence

that the fire was caused otherwise than by engine defects. The defendants could not exploit the confusion caused by their use of similar names.

## Hearsay & human rights

The European Convention on Human Rights Art 6 (Right to a fair trial) says in 3(d) “Everyone charged with a criminal offence has the following minimum rights:...to examine or have examined witnesses against him...”. In the cases of *A-Khawaja* and *Tahery* the European Court of Human Rights held that if hearsay is the sole or decisive evidence against the defendant, it cannot be used. The judgment in the UK appeal was given on 15 December 2011 (a dialogue with the UK Supreme Court’s decision in the *Horncastle Case* (2009)) conceded that exceptionally hearsay can be sole or decisive.

## John Doe & Richard Roe

In *Alexander Forbes v John Doe and Richard Roe* (2011) Judge Purle QC said: “Under CPR 8.2A, it is now permissible for a claim form to be issued without naming a defendant, where a Practice Direction makes provision to that effect.

Practice Direction 64B does make such provision...Accordingly, whilst the proposal to bring these proceedings without a real defendant was an entirely proper one, the naming of Messrs Doe and Roe was unnecessary...it seems to me that...Messrs Doe and Roe should now be put to rest”. *OBG v Allan* (2007), alas, said much the same.

## Lurking doubt

A woman’s husband and another man were prosecuted for her murder, and the other was convicted. He argued in *Pope v R* (2012), on a retrial which upheld his conviction, that the court should apply the “lurking doubt” principle. The court disagreed. ‘It was not open to the court to set aside the verdict on the basis of some collective, subjective, judicial hunch that the conviction was, or might be, unsafe. The application of the “lurking doubt” concept required an inexorable conclusion, reached through a reasoned analysis of the evidence, or the trial process, or both, that the conviction was unsafe.’

## New motor car

The Ford Motor Co was convicted of selling a Cortina to which a false trade description was attached, namely that it was new. The car had been stored in an agent’s compound, where it was damaged by a collision with a trailer. It was repaired and delivered to a retail garage for sale to its customer. On appeal, in *R v Ford* (1974), it was held that, if the damage was superficial albeit extensive and was perfectly repaired and could be said to be as good as new, it was not a false trade description to describe the car as new.

## Pedlar

A pedlar is defined in the Pedlars Act 1871 s3 as “a hawker...or other person who...travels and trades on foot and goes from town to town...carrying on to sell”. Mr Jones was prosecuted for engaging in street selling contrary to the Local Government (Miscellaneous Provisions) Act 1982, on evidence that he had stood in the same place on two successive days and sold umbrellas. His defence, that he was exempted from that offence by his pedlar’s certificate, failed, because he travelled from town to town by motor car, and therefore was not a pedlar. **NLJ**

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