

The Case of old Bentley Number 1
The Case of old Bentley Number One

HUBBARD vs. MIDDLEBRIDGE SCIMITAR LIMITED

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
Royal Courts of Justice, London.
No. 90/MJ/2474 - 27th July 1990
Before: MR. JUSTICE OTTON

Transcribed from the Official Tape Recording by Carter Walsh & Co.,
6 Jelleyman Close, Blakebrook, Kidderminster DY11
6AD. Official Court Reporters and Tape Transcribers.)

MR. M. ROSEN, instructed by Carter Faber, London EC4Y 9AY, appeared on behalf of the plaintiff.

MR. R. SLOWE, instructed by Dibb Clegg, London WC2A 1NE, appeared on behalf of the defendant.

JUDGEMENT (As Revised)

MR. JUSTICE OTTON: In this action the plaintiff, Edward Hubbard, seeks specific performance of a contract entered into with the defendants, Middlebridge Scimitar Limited, on 7th April 1990. The subject matter of the agreement is what is said to be a Bentley Speed 6 Racing Car known as "Old Number One".

The plaintiff agreed to sell this car for £10 million, in exchange for the assets of Middlebridge Scimitar Limited valued at £3.2 million, plus £6.8 million in cash. When the agreement was reduced into or evidenced in writing the car was described as "Bentley. Known as 'Old Number One'". The defendants subsequently resiled from the deal when they suspected the authenticity of the car.

The plaintiff is 59 years of age and has had a passionate interest in fast and prestigious motor cars all his life. He has acquired a deep and detailed knowledge of vintage Bentleys and since that time he has owned 50 or more cars and has had one of the largest collections of Bentleys in the world. He had a private museum of classic motor cars at Radlett in Hertfordshire, and an extensive library on the subject. In separate premises in Watford he operates a company (Buttons Limited) where he employs a substantial staff to prepare and race a Formula 3 racing team to prepare and race vintage and historic racing cars, and for the purpose of restoring old racing cars. He still races with Vintage Bentleys and is a member of the Bentley Drivers Club.

The defendants are a company formed in May 1987. They are a subsidiary of Middlebridge Group Limited. The Company and the Group carry on the business of manufacture and sale of Scimitar cars. They also have an interest in modern racing cars, having recently acquired the well known Brabham Formula 1 racing team. The Company are also engaged in restoration of classic cars, i.e. cars produced some time after World War II.

The principal shareholder of the Group is Mr. Kohji Nakauchi, from whose name in Japanese the Group's name derives. He is clearly a wealthy industrialist and a collector of important motor cars, particularly of famous British marques. The chairman of the Company and the Group is Mr. Dennis Nursey. He, too, has a keen interest in motor cars, notably in the well known and well loved Aston Martin marque. He has considerable experience in the world of motor cars and in business. His business interests have taken him to Japan and he has the rare distinction of being able to speak Japanese. He is clearly a most able and accomplished businessman and "a bit of a go-getter". He is ambitious and talented.

The managing director of the Group and the Company is Mr. William McCormack. He has a history of banking behind him and is considered to be the person who looks after the financial side of both the Group and the Company and acts as their accountant. He is clearly articulate, intelligent and has experience in dealing with contractual arrangements and, in particular, with written contracts.

The Case of old Bentley Number 1

However, the principal character in this action is not the larger than life Edward Hubbard or the ambitious and thrusting Japanese speaking Dennis Nursey. It is two tons of motor car referred to throughout as Old Number One, and it is the integrity, provence and pedigree of this vehicle which have been under scrutiny.

It was produced for my inspection in Lincoln's Inn. It looked beautiful and the magic and sheer power of its engine evoked excitement and nostalgic memories of the past; but looks and sounds are not everything. The defendants maintain that it is not worth to bear the name Old Number One.

Between 1921 and 1930 W.A. Bentley, the founder of Bentley Motor Cars, took a passionate interest in motor racing. To many, even today, motor racing in the 20s and 30s was the Golden Era. The rapid progress in mechanical engineering during and after the first world war brought together a remarkable fraternity of drivers, engineers, industrialists and enthusiasts who all shared a passion for racing cars. Drivers were legendary -- Captain Babe Barnato, Kitson, Sammy Davies, Sir Henry Birkin, Clive and James Dunfee to name a few of the "The Bentley Boys" as they were known. Wally Hassan and Nobby Clarke and others were the master mechanics and expert engineers who developed the racing car to the limits of technology, science and the state of the art of their day, and who had to satisfy the insatiable demand of the drivers for ever faster motor cars.

They strove to be, and were, world beaters particularly on two circuits -- Le Mans and Brooklands.

Origin

The car, which was later to be known as Old Number One, started life when it was selected at random from the Standard Six production line in preparation as the Bentley team entry for the 1929 Le Mans race. At that stage it was technically known as a rolling chassis, consisting of a chassis or chassis frame, an engine, steering column, suspension and wheels. It bore the chassis number LB2332 and the engine number LB2336. It was taken to the racing shop where it was stripped down and rebuilt to a higher specification by Wally Hassan, the master mechanic, and others.

It was the second Speed Six to be built. It had a six cylinder, 6+ litre engine, with a non-detachable head in the form of a conventional internal combustible engine. The precise specifications to which the car was built appears at pages 49 to 50 of Mr. Hay's authoritative book: "Bentley, the Vintage Years 1919 - 1931".

It was fitted with a four seater van den Plas open body. After the successes at Le Mans of the 3 litre and 4+ litre cars, much was expected of it. At Le Mans in 1927 the 3 litre Bentley had won at a speed of 61.35 miles per hour. In 1928 in a 4+ litre affectionately known as Old Mother Gun, Captain Barnato with his co-driver Rubin had won at a speed of 69.11 miles per hour.

On 24th April 1929 the car was registered bearing the registration number MT 34484. The car that I saw bears this registration number today.

Racing History

The racing history of the car began at Brooklands in the Double twelve race in 1929, so-called because the race was run in two successive twelve hour daylight periods. In the interval the cars were locked up for the night. It did not complete the race, in circumstances of some mystery but probably because it suffered from a defective dynamo. In 1929 it entered the La Mans race and because its engine capacity of 6+litres was the largest in the field it was assigned the race number of No. 1. It was driven by Captain Barnato and his co-driver was Sir Henry Birkin.

At page 264 of Mr. Hay's book there is a short description of the race as follows:

"The Speed Six, driven by Birkin, was first away on the flagfall and apart from the problems with shifting ballast on the Clement Chausan 4? litre and

The Case of old Bentley Number 1
the retirement of the Earl of Howe in No. 11 with magneto trouble, the four Bentleys held the first four places virtually from beginning to end. At one point the Chrysler of Stoffel and Benoir reached third place but gradually the American challenge faded and W.O. (I.e. W.O. Bentley) reduced the speed of all cars to a fast tour. W.O.'s policy of not showing the potential of the cars irked the drivers. Jack Dunfee stopped at the pits and said I say, W.O., do

"you want me to get out and push the bloody thing? I've just stopped and had a drink at the Hippodrome', and he had one too. Shortly before 4 p.m. the cars slowed, formed up in line astern and at flagfall the victorious team cruised over the in finishing order: No.1, No.9, No.10, No.8, all Bentleys."

Some cruise! The speed was 73.62 miles per hour.

The cars in those days were driven back to England through France, via Paris, and one can imagine the victorious scenes which greeted the cars on their route back. They were driven by the engineers and mechanics. When they arrived at Cricklewood they were examined in length and depth.

As Mr. Hay in his expert's report says,

"It is important to realize that racing cars are invariably changed during their careers, to incorporate improvements and modifications, and because of hard use and accidents. This was effectively summarized by Nobby Clarke, head of the racing shop 1926 - 1929 and team manager at La Mans between 1926 - 1930 as follows in 1974: One must realize that the international reputation of the Company was at stake, and there had to be no mistakes

made, by me or anyone else in authority. We therefor changed bits and pieces under racing conditions which under normal conditions could have been allowed to run on. Remember that once the starter's flag has dropped, it is too late to think that I wish that I'd changed this or that".

The plaintiff's experts, Mr. Hay and Mr. Guppy, with the aid of a remarkable series of photographs, the Bentley stripping records and service records, have been able to trace the way the car changed between each race, often significantly. Bentley Motors incorporated bits to latest specification when these were available. The changes are largely non-contentious between the parties and thus I can set them out in summary form.

Within a matter of weeks after participating in the Double Twelve race on 10th May, photographs taken in June 1929 show the Van den Plas body cut away for the driver's elbow was deepened. The body catches and straps had been changed; the petrol tank bar at the rear changed and Lucas headlamps substituted for Smiths. The chassis fairings had been removed and the handbrake changed to cable and adjuster pattern. It was essentially in this form that it arrived at Le Mans where it is noted that two horns had been added to the front. The fishtail exhausts required to placate the residents in the vicinity of Brooklands had been removed and a straight-through exhaust system substituted. It was in this form that it won the race at Le Mans.

A fortnight later, on 29th June, it was back at Brooklands for the 6 hours race. The back axle internals had been renewed along with the exhaust valves, and all the valves springs and rear drums. The Smith headlamps had been refitted and the former bonnet straps had again been changed. It won at 75.88 miles per hour and suffered slight damage.

Within a fortnight it had been modified and prepared for the Irish Grand Prix at Phoenix Park. The back axle internals had been removed; the fishtail had been refitted to the exhaust; the windscreen removed and aero-screens fitted direct to the body. In this form it took second place.

On 17th August 1929 it was ready for the Isle of Man TT Race. The fishtails were removed and a ballast bar added to the front of the chassis. Unfortunately the car crashed, suffering damage to the front end of the chassis, front axle, shock absorbers and brackets. The bonnet and magneto were replaced.

Even so, by 12th October 1929 it was ready for the 500 miles race at Brooklands.

The Case of old Bentley Number 1

A new 600 cylinder pattern differential and spicer shaft had been fitted. The car was rebodied -- the four seater Van de Plas was removed and replaced by a two seater form with fintail or fishtail, new petrol tank and a fly-off handbrake had been fitted direct to a compensator. The gear lever was cranked outside the body with no reverse catch. The car in this form took second place.

Thus by the end of the 1929 season the car was overdue for a major overhaul. This must have taken a considerable period of time because there are no photographs between October 1929 and June 1930 when the car was entered for the Le Mans. In the intervening period two new Speed 6's were built to a new 1930 specification and the 1929 winner was similarly rebuilt. It is common ground between the experts and accepted by the defense that of the 1929 Le Mans winner possibly only the pedal shaft and the compensator survive.

The records reveal that the 4? litre pattern differential was over stressed so the standard production 6? litre differential was fitted with standard spicer shaft. The chassis frame was replaced, along with the front axle beam. A new gear box of the D Type, along with a new differential and spicer shaft were installed. Bracing across the front of the frame was changed. The Hartford friction shock absorbers were deleted and replaced by twin hydraulic Bentley and Drapers. It seems likely that the steering column was changed as well. There was a modified crankcase to accommodate the Bosch starter. Thus it can be seen that the 1930 car was very different from the 1929 car both in appearance and specification.

This Speed 6 did not race at the Double Twelve Race at Brooklands. However, Captain Barnato and Clement drove another 6? litre and clocked the astonishing speed of 86.68 mph. Old Number One was being prepared for the Le Mans race along with two other Speed 6's.

The changes in the car can be readily seen from the series of photographs taken before and during the race. The car was again driven by Captain Woolf Barnato. There was a formidable challenge from a supercharged 7 litre Mercedes Benz. Because of the Mercedes Benz' larger engine capacity it was assigned the No. 1 race number. The next three numbers were assigned to the three Bentley Speed 6's because they were of 6? litre capacity, and No. 4 was assigned to the car bearing chassis number LB2332. Thus it was racing as No. 4.

Again, the account is of interest. The cars went off to a good start and the Mercedes driven by Karachiola and Berner did extremely well in early stages. Bentleys suffered some misfortune. However, the account reveals:

"The chase, though, was still on with Barnato taking over from Kitston with orders to push the Mercedes hard.

Barnato finally took the lead on the 36th lap, pushing the Mercedes into using the clutch engaged supercharger all

the time, the whine of which could be heard all the way round the track. It was well known that too much use of

the supercharger would blow the Mercedes engine and Barnato was playing his part to perfection. The Mercedes

led again on lap 37 and then the Bentley on lap 40, then the Mercedes again on No. 4's pit stop and handover to

Kitston. The Mercedes came in to refuel on the 46th lap with Berner taking over for a brilliant spell in the dark to

regain on the 59th lap, but this last effort heralded the demise of the Mercedes challenge. The reason, though,

remains unclear to this day. The motor noted that the Mercedes had been suffering from weakening brakes and

that flickering of the oil pressure gauge had been causing concern. Eton, in one of the Talbots, passed the

Mercedes on one part of the course and noticed how powerful its headlamps were shortly before its retirement on

the 82nd lap due to the battery being completely discharged. The failure of the Mercedes to respond to

push-starting, coupled with W.O.'s mention of water pouring from a blown gasket suggests there was more to the

Mercedes retirement than met the eye, and Karachiola and Berner told W.O. that their schedule, based on the

The Case of old Bentley Number 1
1929 Speed 6 performance, gave them a lead of a whole lap at that point --
a vindication of W.O.'s policy of not
revealing his hand unnecessarily.

The rest of the race was inevitably something of an anti-climax. W.O.
reduced the speed of the six Speed 6's to a
fast tour with the Dangerfield car third and Birkin fourth. The two Stutz
(American cars) retired, one catching
fire and the other with a deranged back axle. During the night Ramponi
suffered from a fever and visions and
could be persuaded to drive for a lap with only the greatest difficulty in
order to meet the regulations. Of the
Blowers (i.e. the Bentleys with superchargers), Birkin retired just before
noon with a broken valve followed
shortly by Dangerfield with a collapsed piston, a very stout effort having
driven single-handed for ten hours. Thus
it was that Old Number One Speed 6 led GF8507 over the line at 4 p.m. for
the fifth and final Bentley win at Le
Mans. The two Speed 6's also took first and second places in the Rudge
Whitworth Biennial Cup with
performance indices of 1.172 and 1.33 respectively. The British triumph was
completed by the 2.3 Talbots which
finished third and forth on distance and formula."

No-one has suggested that this car which won the 1930 Le Mans was a new car,
merely that it was a metamorphosis from the 1929 car. The 1930 car was a
continuous process and an evolutionary stage of the car's development. The
modifications were clearly justified by the win and the increased average speed
of 76.88 mph.

After this race Bentley Motors retired from racing and the car passed to Captain
Barnato as his private motor car. Captain Barnato was a rich man and had many
cars, including several Bentleys, but he always regarded MT3484 as his racing
car. The registration book shows the alteration in ownership.

Shortly afterwards it was noted that there was a change to the windscreen and a
standard exhaust system with silencer had been added.

Following its success at Le Mans it was prepared for the 500 miles race in
October at Brooklands in 1931. The parts changed included the clutch stop,
clutch shaft and linings, the offside stub axle with kingpin bearings,
hubsteering arm, brake shoes and track rod. Five new main bearings and crankcase
were fitted. For this race the Le Mans body was removed and replaced by the
racing two-seater with its petrol tank.

From the photographs taken at Brooklands in October , further changes can also
be observed. Double acting Bentley and
Draper hydraulic shock absorbers had been installed to the rear along with
additional inboard Hartford friction absorbers. A
horizontal mesh radiator stone guard had been added. A fly-off handbrake had
been mounted on the compensator. The
radiator had been lowered, and various other less significant or visible
modifications which I need not set out.

The result of this race was a resounding victory. The development had increased
its speed to 118.39 -- nearly 9% increase on its previous year's performance.

At this stage I must refer to the evidence of Mr. Walter Hassan. He is now 85
years of age. He is a most remarkable man. He is acknowledged as being the
master mechanic who looked after and ministered to and I have no doubt cherished
the racing cars of the Bentley team, and in particular the Speed 6's. He gave me
a short description of his life in mechanical engineering and he must have a
reputation second to none. At least in this country if not outside it.

He told me that in 1930 Barnato, who was the Chairman of Bentley, asked Hassan
if he would join Barnato to look after his team of cars. He was well familiar
with what had happened to the car which had won Le Mans twice. Mr. Hassan was
part of the team which had prepared the car for Le Mans on both occasions. I

The Case of old Bentley Number 1

accept that Mr. Hassan and Captain Barnato considered that the same car had won both races. Captain Barnato having retired from racing himself, still took an active interest in the car. MT3884 was registered in his name in the log book on 5th July 1930. I am satisfied that after the 1931 500 mile race Captain Barnato asked Hassan to rebuild the car with whatever he thought was necessary to bring it up to a condition whereby it could race for several more years.

There was a fire in 1932 at Arden Run, the country seat of Captain Barnato where he kept his motor cars, and was the center of activity both socially and otherwise for the Bentley Boys. As a result, the rebuild could not take place at Arden Run and it was conducted in a used garage in Mayfair, again owned by Captain Barnato.

Mr. Hassan started with a 4+ litre chassis frame which was stronger than the old 6.5 litre because it was feared that it would break or crack. Mr. Hassan told me that he used all the existing parts of the older car -- that is the radiator, the clutch, the gear box, the axles, the scuttle, the electrical equipment and pedals, as Mr. Hassan said in terms, "and we finished it up in the form it is now. It was ready for the 500 miles race in that September but Captain Barnato thought it would be a bit faster with a bigger engine, so we obtained an 8 litre engine and I built that into the car. That is the state that it ran in in the race when Clive Dunfee unfortunately went over the top and was killed as a result."

He described in detail how they obtained the 4 litre side-members of the chassis and the 6? litre cross-members in order to accommodate the D Type gear box from the old car which Captain Barnato insisted should be incorporated. Mr. Hassan told me that all the running parts that are important to a car came from the old 6.5 litre. It was really only the side-member which were replaced. He explained how Captain Barnato intended the car to be in effect the same car as it was before, and merely updated. For this reason, although new chassis side-member were incorporated, the old chassis number LB2332 was marked on the new chassis frame. The number was stamped but not, as I find, as Mr. Hassan recalls at the front of the chassis side-members in the vicinity of the dumb-irons. The numbers can clearly be seen on the front engine cross-members where the number is stamped twice. I suspect that this was done either by Mr. Hassan or a fellow mechanic engaged in that rebuild. This is of minimal significance.

The car in its new form and with the 6? litre engine made its first race appearance on Easter Monday 1932 in the British Empire Trophy Race. It did not win and was deprived of third place. Captain Barnato was not used to his racing car not winning or taking a place -- even when he no longer raced the car himself. He thought the car was too slow. He was at that time on the Board of Rolls Royce. Using his influence he managed to obtain an 8 litre engine. There was only a week or so to the October race. He instructed Hassan to take out the 6? litre engine and install the 8 litre engine. Hassan described how it went in easily. As he put it: "I did not have to do anything other than pull out the three bolts and put the other engine in and bolt it in again and connect up the clutch."

Photographs are available showing Barnato driving the rebuilt car on demonstration laps at the August 1932 BARC meeting at Brooklands. Mr. Hay, the expert called on behalf of the plaintiff, pointed out many parts from the Speed 6 -- namely the handbrake, radiator cap, droparm wings etc. As he put it in his report:

"It is clear that the rebuild represented an evolutionary stage in the development of the car, as in the 1929/1930 rebuild by Bentley Motors."

The final preparations for the 500 miles race at Brooklands included a cowl which was added to the scuttle in place of the aero-screen. There are many pictures of the car during the race and of the terrible crash. History records that the car went over the top of a bank at an estimated speed in excess of 120 mph causing Dunfee to lose control. He was thrown out of the car and received fatal injuries. The car appeared to break up and turn over, and there are several pictures of its sorry state when it came to rest. Not unnaturally, Barnato was very upset at the death of his friend. The car was recovered but it

The Case of old Bentley Number 1 never raced again.

It is at this stage that mystery and myth start to surround the car. Commentators writing many years later seem to have formed the view that the car had suffered so much damage that it was irreparable. This may well have been engendered in part by the dramatic newsreel film record. The doubting Thomases underestimated the skill of Wally Hassan. He examined the car. He told me: "The body was of course ripped off but all the mechanics, the mechanical parts, were all perfectly OK. The RAC held an inquest on the thing and no mechanical fault was found as a cause of the crash." Later he put disarmingly: "We were just able to clean it up and we had a new body built for it, a coupe body this time." The original 6.5 litre Speed 6 radiator was put back on the car. This item was very unusual because Captain Barnato had had all the cars successes inscribed upon the radiator and insisted that the radiator was incorporated in the car in the 1931 rebuild and the 1932 repair after the crash. The significance of this gesture appears hereafter.

Mr. Hassan, being an engineer, did not go along with the name Old Number One. That was a creature of the enthusiasts and no doubt journalists and other writers of the day. He knew it by the chassis number which, as he told me, is the true identity of any car. He knew it through out as LB2332. This was the number it carried right from the beginning when he first helped to assemble it way back in 1929. His power of recollection I found to be most impressive, although I am bound to say he appeared to tire towards the end of his evidence.

To the suggestion that the 1929 car had ceased to exist in 1932 he said "Well it did not, because the bulk of the car was fitted within the new side-members so that it was the same car, same wheels, same axle, same steering column, same clutch, same gear box." He then went on to describe what prompted the change of the chassis frame. The 4.5 litre cars all broke their chassis frames, one during the Le Mans race, one on the way home between Le Mans and Dieppe and one on the road from Newhaven to Cricklewood. This caused some anxiety. He also gave more details of his instructions, which were to put together as many parts of the first car, the 6.5 litre car, as possible within the two new side-members. They knew it was going to be used in the 500 miles race later that year and that they should build the car accordingly.

As he said in terms: "It was never the intention that it should be a new car. It was just the old car with new side-members which we had had problems with previously with them cracking. We took the best steps we thought possible to put the strongest chassis in. All the other parts were ex the body that had become known as Old Number One: engine, gear box, clutch, radiator, brakes, axles, all the sort of stuff which go together to make a car." He estimated that between 90 and 95% of the 1930 car went into the 1932 car. In the light of Mr. Hay's and Mr. Guppy's evidence I consider that this is an over estimate and the percentage was more likely to have been 70%, which was reduced when the 8 litre engine was substituted for the 6? litre engine. This engine change did not require substantial modification to the chassis frame, gear box or axle.

The increased engine capacity was achieved by larger bores with the same piston stroke within the 6? litre block. The inlet and exhaust sides were changed but I was shown at the view how this was achieved by simply swinging the 8 litre engine through 180 degrees before offering it to the chassis frame. Mr. Hassan also explained how later he was invited by Barnato to build a Bentley Special using the old 6? litre engine. This was known as the Barnato Hassan Special and became famous in its own right. He also created the Pacey Hassan which, along with the Barnato Hassan, plays no part in this case.

In cross-examination he was asked about his book and how he had, when putting into writing his memories and career in a book called "Climax in Coventry" -- he was asked about the period of history of the car when he received his instructions from Captain Barnato. I shall not quote all the passages; only those I consider of particular relevance. He said at pages 29:

"At first there was no suggestion of my building a special track car for Barnato. I simply maintained his road cars whenever they were based at Arden Run and concentrated on preparing and developing his racing Bentley. The

The Case of old Bentley Number 1

first car was the old Speed 6 which had brought Barnato so much success in the works team. He had all the successes he had gained with it engraved on the radiator. It had become his own property and in October 1931 he took it to Brooklands for the 500 mile race, where Jack Dunfee and Cyril Paul were to drive it ."

He then goes on to describe that race.

Later he was asked, reference bundle 3, 207A, why he wrote the following passage:

"Eventually we decided to retire the Speed 6 Old Number One and build a special track car, although the decision was rather forced on us when Jack Dunfee took it out in the Empire Trophy Race early in 1932 and brook its crankshaft. Now I won't say that this sort of breakage was unheard of, but for it to happen to a Speed 6 meant that the car had endured rather a lot of flat-out motoring. You could forgive it almost everything, though, because it had won a lot of races for Barnato and a lot of prestige all around. The new car was to be a purpose built racer and it was here that I put my idea to work on an entire car design for the first time. We had encountered chassis frame troubles on Old Number One so we decided to start with the strongest possible chassis. Although the 4 litre Bentley never had much of a reputation as a production car, its very strong frame, being a shortened version of the 8 litre, seemed to me to be ideal for the job.

At first we put the rebuilt 6? litre engine out of Old Number One into the new car but it wasn't fast enough and somehow Barnato was able to get an 8 litre engine from Rolls Royce. The 8 litre engines were very rare by then so it needed considerable influence to get one out of Bentley's new owners."

Mr. Slowe would wish me to emphasize the words "retire", "build a special track car", "the new car was to be a purpose built racer" and "entire car design. We decided to start with the strongest possible chassis", and later "At first we put the rebuilt 6? litre engine out of Old Number One into the new car".

Later he also uses expressions such as "the new track car was down through the trees on the entrance below" referring to the crash when the car had come to a standstill, and later "Barnato kept what was left of the car for some time and did nothing with it. Then eventually he decided that it should be rebuilt as there was not a lot of damage." There are other passages, notably where he seems to suggest that the car which was built which finally incorporated the 8 litre engine and which was entered for the race in 1932 at Brooklands in which Dunfee was killed was in fact a new car and not a continuation car of the 1929, 30 and 31 seasons.

I have had to consider that matter with great care. Mr. Slowe, if I may say so , dealt with the matter very delicately but tellingly in cross-examination, but at the end of the day I accept Mr. Hassan's explanation. He was merely talking into a tape recorder for the purpose of a book which was being produced or "ghosted". From this I infer that the matters were perhaps ghosted or he was assisted in writing those matters. Even those passages which suggest that must be read alongside the evidence which he gave.

I am satisfied that when he was giving his evidence his recollection was crystal clear and he was trying to help me as much as he could. If he could not remember anything he was frank enough to say so. I do not find those passages sufficient to impugn his integrity. He was a most careful and impressive witness and I accept his evidence implicitly.

Subsequent History

The Case of old Bentley Number 1

The subsequent history of the car can be summarized as follows. Following the 1933 rebuild it was fitted with mulliner fixed head coupe body. Captain Barnato drove the car as a road tourer in this country and in the United States. There was trouble trying to get fumes out of the car. Apparently even Wally Hassan could not cure that defect. In 1936 he sold it to a Major Hartley-white who sold it back to Captain Barnato and in 1939 the car was acquired by H.M. Bentley. In 1957 the car was acquired by a Michael Quinney. He and Alan Paget rebuilt the car with a two-seater body. In 1960 the car was purchased by a Mr. J. Ward in Lincolnshire. He sold it in 1966 to David Tunnicliffe in the United States. In 1988 the car returned to the United Kingdom when it was offered for sale on the 5th December 1988 at Sothebys. It was not sold and the car passed to Stanley Mann, a celebrated vintage car dealer and then to Edward Hubbard.

Based on all this data and information, it is Mr. Hay's considered opinion that none of the 1929 Speed 6 survives with the exception of fittings which is impossible to date. Of the 1930 Speed 6 he believes that only the following exist on the car as it is now, namely pedal shaft, gear box casing and steering column. Of the 1932 car, the 4 litre chassis and 8 litre engine form in which it was involved in the fatal accident, he believes that the following exist: the chassis frame, suspension (i.e. springs, hangers, shackles and mountings), front axle beam, back axle banjo, rear brakes, compensating shaft, front shock absorbers and mountings, the 8 litre engine, some instruments and detailed fittings.

On this analysis, and having examined the car as it exists today after Mr. Hubbard's rebuild of it, he has come to the conclusion that this car is a direct descendant of Old Number One Speed 6, the car that won at Le Mans in 1929 and 1930. The car has been rebuilt several times to reach its present form but has a continuous documented history from 1929. He is surprised why its identity is in question and he fails to understand how anybody could seriously argue that this car is not, by its continuous history,

Old Number One. As he put it: "there is most certainly no other car that has any claim whatsoever to be Old Number One." Thus we have the expert evidence of the historian. It is supported to a great extent by the evidence of Mr. John Guppy, the mechanical expert. He has over 30 years' experience as a mechanical expert which extends to Bentley motor cars. He received instructions from his later father who was the racing mechanic to the well known Tony Rolt and Red Parnell who were both amongst the leading British racing drivers of the post war period. He was a partner in the Mckenzie, Guppy & Sons which were universally acknowledged to be the leading repairers of Bentleys manufactured between 1919 and 1931, and sometimes known as Vintage or W.O. Bentleys. He served an apprenticeship with Mckenzie, Guppy & Sons and for the past 25 years he has been a freelance specialist in the restoration and race preparation of Vintage Bentleys and historic racing cars.

During that time he has maintained and repaired vintage cars of various leading Bentley exponents, and he gave names. During the course of such work he has become familiar with the design work of Walter Hassan. His experience also extends to having rebuilt the Pacey Hassan car twice and he has race-prepared the Barnato Hassan car which is still in existence. He is thus familiar with Hassan's work and considers it to have various recognizable characteristics. Hassan's experience, knowledge and ability coupled with exceptional connections allowed him to create three outstanding competition Bentleys during the 30s. The first of these was the car known as Old Number One, as well as the Pacey Hassan and the Barnato Hassan.

Hassan's vast experience, gained through direct involvement in Bentley Motors' racing programme enabled him select Bentley components best suited to his purpose and it would appear a combination of whatever parts he required. However, Hassan's cars contained relatively few adapted or modified parts. He did not hesitate to design his own components to suit his requirements.

There is also evidence from Mr. Hassan that whenever he could he always used as existing component providing it had been proved and there was no reason to suspect its integrity as a part or that it would let him down. As he put it: "I always liked to save my guv'nor money." I do not think it was merely parsimony

The Case of old Bentley Number 1
that caused him to do that. It is the mark of an excellent engineer and his pride which will only permit him to use a replacement when the part is no longer serviceable.

Mr. Guppy went on to say that it is important to bear in mind that the purpose of maintaining a racing car is to ensure that it contains the optimum components available to enable it to win races. In the course of maintaining and repairing any racing car components would be continually examined, repaired and replaced to achieve the best possible performance and reliability. On occasions time constraints might also enforce the substitution of one component for another and the original may or may not be reinstated at a later time. In such circumstances it would, therefore, be quite unrealistic to complain that in 1990 a racing car first seen in 1929 did not exclusively consist of the original parts incorporated when the car was first built. A racing car is a continual development around a theme, and dependant upon its history might retain a greater or lesser proportion of its original parts without jeopardizing its perceived authenticity -- a word to which I shall return hereafter.

In his opinion, with regard to vintage Bentleys it is relevant to observe that unlike a modern car, the bodywork was not an integral part and for racing purposes Bentley Motors fitted bodywork complying with the regulations for each event. This led to a situation where a car might have various bodies fitted during the course of a season's racing and bodywork being transferred from one car to another. Such changes and transfers were rarely recorded.

Having examined the car closely at the premises at Dutton U.K. Limited, and having satisfied himself that the numbers identifying the components correspond with the documentation relating to the car, he is satisfied that the chassis is stamped LB2332 and the engine is marked YH5127. As a result, he is in no doubt that the car in Mr. Hubbard's possession is the car which has historically been known as Old Number One. As he put it, "I base this identification upon this chassis which is rather unusual in that when it was rebuilt by Walter Hassan in 1931 he replaced the Speed 6 side rails with new 4 litre Bentley type side rails while retaining Old Number One's D Type gear box and related chassis cross members. I don't know of another Bentley with this configuration."

The plaintiff also gave evidence of an expert character but I do not think it right to accept his opinion on these matters, merely his description. He took me through in detail how the car was restored and produced a portfolio of colored photographs which were assiduously taken each stage of the restoration process. Mr. Hubbard has obviously spared no effort and I suspect expense in establishing the bona fides of the car and sought perfection in researching the provenance and minute details of the car, including consulting Mr. Walter Hassan when the project first started. Mr. Hassan approved of the rebuild and was no doubt proud to be driven round the Montclery Circuit a few months ago with Mr. Hubbard at the wheel.

Thus the expert evidence is all one way. It confirms that as with any other racing car the parts in the car were continually being changed. Such changes were made either because the parts were worn or because the specification of the car needed upgrading. Accordingly, the car evolved over a period of time as a continuous entity and can still properly be regarded as the present legitimate manifestation of Old Number One. As Mr. Guppy put it, "A racing car is a continual development around a theme and depending upon its history might contain a greater or lesser proportion of its original parts without jeopardizing its perceived authenticity".

The defendants did not call any expert evidence at all. No attempt was made to adduce as evidence (under the Civil Evidence Act) the views of any other experts, either dead or living. There was a hint when the case was well into its stride that the defendants might seek to call Mr. Keith Shellenburg. In the event, no expert's report was disclosed from him nor anybody else, nor was any application made. Even so, I must take account of other sources of information to which both sides referred.

Daryl Berthon is a former Secretary of the Bentley Drivers' Club. In 1935 he published the first edition of "A Racing History of the Bentley". In Appendix 1 he wrote an account of the 1931 500 miles race, stating:

The Case of old Bentley Number 1

"In this year's 500 miles race Woolf Barnato entered Old Number One Speed 6 No. 46 now fitted with a single seater body and driven by Jack Dunfee and Cyril Paul."

There were then two references to Old Number One and finally

"Old Number One crossed the line and received the checkered flag for the fourth time in its career".

I emphasize the words "fourth time"; it can only be a reference to the 1929 Le Mans, the 1929 Six Hour Race at Brooklands, the 1930 Le Mans and the 1931 500 miles race. He thus regarded the car as a continuous entity up until 1931.

In Appendix 2 he deals with the same race in 1932, the fatal race. He records:

"For the race. . . old Number One had an 8 litre engine in place of the original 6½ litre engine and was driven by
Jack and Clive Dunfee"

and later:

"Then behind the members' hill the exhaust noise of Old Number One suddenly cut out. It was never heard again."

Thus he regarded the 1932 crash as the end of Old Number One. In the second edition of his book it transpires that he had consulted Hassan "for solving the mystery regarding the fate of Old Number One Speed 6". In Appendix 1 he records at the end of the 1931 race: "This was Old Number One's last race"

and in Appendix 2 for the 1932 race he records:

"The Bentley driven by the Dunfee brothers in this race was not Old Number One."

These seemingly authoritative statements were the lynch pin of the defendant's case. This book was considered as the authoritative work on Bentley racing motor cars.

Mr. Hay, the plaintiff's expert, was only 22 years of age and still a student apprentice at British Aerospace when he set out to emulate Mr. Berthon. In 1986 he published his first edition of "Bentley - The Vintage Years 1919-1931". He devoted a whole chapter to the 6+ litre production and racing cars. In cross-examination he was naturally asked why, at page 92, beneath plate 192, he had written:

"If eye teeth were a marketable commodity, Old Number One Speed 6, winner of the 1929 and 30 Le Mans,
here seen at Barnato's country house, Arden Run, just days before the 1929 race; the No. 2 is from the 1929 Double Twelve Race and a special cable operation with adjuster can be seen on the handbrake. Sadly broken up,
bits of the original car survive in the 4/8 litre in the States,
registration MT3464, chassis number LB2332, coach
work by Van den Plas."

At page 278 he had recorded under a photograph of four Bentleys that one had survived and "the other three cars have all been broken up, i.e. including Old Number One." Mr. Hay had to concede, which he did with commendable frankness, that this was wholly inconsistent with his report and expert evidence. His explanation was that he had relied upon sources which included the respected Daryl Berthon. He also told me that he had changed his views well before he was asked to give evidence in the case. He was invited to Sotheby's to examine the car when it was in bond at Heathrow and helped to compile the auction catalogue in which his opinion that it is the same car, i.e. Old Number One, is included.

I have had to consider this matter with the greatest of care. I accept Mr. Hay's explanation and that his view had changed well before he anticipated giving

The Case of old Bentley Number 1
evidence. I do not find that this inconsistency undermines to any significant degree the weight that I attach to his assiduous research into the history of the car and the opinion that he has expressed in his report and in evidence.

Mrs. Diane Barnato-Walker is the daughter of the late Captain Barnato. She was a surprise witness and contacted the plaintiff's solicitors of her own initiative when she read of this action in the newspapers. She was born in 1918 and was 14 years old at the time of the 1932 Brooklands crash. She was present at the 500 miles race and saw Clive Dunfee driving Old Number One, as she put it, in what she called gray primer. She was standing next to Jane Baxter, a celebrated actress of the day, who was married to Clive Dunfee. She witnessed the fatal accident.

Her recollection of the car has been rightly described by Mr. Rosen as "vivid". She had recollections of being driven by her father in the car in the grounds of Arden Run and how he used to time the car down the long drive. On the balance of probabilities, this was after it had ceased to be the property of Bentleys and had been acquired by Barnato as his personal racing car. This must have been after the 1930 Le Mans race and thus she must remember it in its Brooklands form in 1931 and 1932. However, the fire at Arden Run was in January 1932 so it is more likely that she remembers the car in that form at Arden Run in its 1931 form.

After the crash she remembers the car being rebuilt in its fixed head coupe form. She has fond memories of being collected in the car from her mother's home in North London by the chauffeur, de Holmes. He would stop at Lyons' Corner House at Marble Arch and buy her and her sister large yellow sweets which they would enjoy on the journey down to Arden Run in Surrey. It was a two-seater coupe and all three sat together in the front seat. It was very cramped. She recognized the car from a photograph. She recalls how fond her father was of the car. He treated it rather like a pet dog; he would often pat it on the radiator and say "Hello, old Number One". Her father was deeply upset over the crash that killed Clive Dunfee, but he still regarded the car with great affection and she remembers him taking it to California.

I must, of course, heed Mr. Slowe's apt comment that some witnesses, with the passage of time, become more sentimental about the old days than actual events may warrant. I did not find Mrs. Walker such a person. She gave her evidence with great clarity and care but with evident pride and was patently trying to assist me in my task. She was, of course, of impressionable age and no doubt has great affection for the Bentley Boys whom she obviously knew well as visitors to Arden Run. She produced her cherished autograph album and I was privileged to see their entries. I have no hesitation in accepting Mrs. Walker's evidence. The importance is that so far as Captain Barnato was concerned, he regarded the car in its various forms from 1929 when it first won Le Mans until he sold it in 1936 as one single entity. It goes a long way to disprove the contention of the defendants that the winner of the 1929 and 1930 Le Mans died, lost its identity, disappeared into mere legend and myth and that a new car arose from its ashes.

As against this I have to consider Captain Barnato's letter in the Autocar in May 1943. This was in response to an article dealing with the history of the car up until 1931 and asking for information as to what happened to it after that. The inquirer had referred to it as "No. 4" and Barnato (who was by this time on war service in the RAF) in his letter in reply refers to the car in similar terms. Nothing turns on this: 4 was of course its race number in the 1930 Le Mans. Mr. Slowe relies very heavily upon this passage:

"It was after this race (the 1930 Le Mans) that I retired from race driving. I had the car de-tuned and used it on the road as a sports tourer including taking it down to the South of France in the late summer of 1930. In 1931 at the request of Jack Dunfee, I again had No.4 put into racing trim with its single seater body from the 500 miles race of that year... The car's final appearance was in the British Empire Trophy Race at Easter 1932, when it was deprived of third place by being given the checkered flag a lap too early. After this it was found that dear old

The Case of old Bentley Number 1

No.4' had cracked her chassis frame and I decided to rebuild the car with a drop frame chassis similar to the 8 litre for the 500 miles race. When the car was completed it was found that the extra weight of the new chassis reduced its performance, so an 8 litre engine was put in instead...It was in this raceClive was killed. I rebuilt the car for the road, put a coupe body on it.....the original radiator with its inscriptions I still have somewhere. This radiator was badly damaged when the car went over the top in the...1932 race and a new 8 litre type was fitted when the car was adapted for the road; in fact one might really say that the inscribed radiator is all that remains of Old Number One." (? four)

Mr. Slowe submits that this is clear evidence that the car ceased to exist after the British Empire Trophy Race at Easter 1932. When it was found that the chassis frame was cracked Captain Barnato decided to rebuild the car with a new chassis and engine. This was a break in the continuity of the car and thus the 1929 and 1930 Le Mans winner ceased to exists for ever.

I have come to the conclusion that these submissions rely upon extracts of a letter taken out of context and which contain material inaccuracies. The letter as a whole relates to the history of the one and only car from 1929 up until he sold it in 1936. He makes it clear that it was his decision to rebuild the same car. He did not let it go into limbo, nor did it cease to exist. More importantly, he regards the car which raced in the British Empire Trophy Race at Easter 1932 as the same car that had won all the previous races back to the 1929 win. It also refers to the fact that it was racing with its old chassis and the 6+ litre engine in both 1929 and 1930 Le Mans races.

But in this regard I think his recollection with the passage of time was at fault. I accept Hassan's evidence that the car had already received the 4/8 litre chassis and it raced with the 6+ litre engine on the new chassis, and this must have been at the Empire Trophy Race 1932. Thus Captain Barnato was mistaken in saying the chassis and the engine were installed after the Trophy Race. I find as a fact by the time of the 1932 Empire Trophy Race it had its new chassis but was still racing with its old 6+ litre engine. That is why, probably, it was only in third place and explains why Barnato wanted it "hotted up" with a bigger engine in preparation for the 500 miles race in October.

When he refers to the "inscribed radiator as all that remains of Old No.4" he is literally correct. The engraved radiator was on the 1930 Le Mans car. I accept Hassan's evidence that it was still in the 1931 car when it raced at Brooklands and was incorporated into the 1932 rebuild after the fatal race, and I infer that it was probably still on the car when it went off the track in the fatal race. I find on the balance of probabilities that Hassan put it back on into the car after the crash and Captain Barnato removed it before he sold it in 1936. I see this as a deliberate, perhaps even sentimental attachment of Barnato to the car, yet indicative that he regarded the car between 1929 and 1932 throughout its four seasons of racing as one and the same. It may be that the radiator still exists. If so, it would be wonderful if it could be discovered, refurbished and reunited with the majestic motor car I saw in Lincoln's Inn; it would be its crowning glory.

In the course of cross-examination Mr. Hay was asked to consider propositions set out by Mr. Hugh Young, a well known enthusiast in his field. He postulates three tests for the integrity of a motor car. They are contained in a series of letters which I need not read at length save that in a letter dated 17th November 1989 he suggests that three tests to be applied are:

1. Historical continuity;
2. Physical originality; and
3. Owner's intent.

In answer to Mr. Slowe he accepted that those were three reasonable criteria to apply when trying to assess the provenance of a motor car. Applying them to the

The Case of old Bentley Number 1
car in question he was satisfied that the historical continuity test could be passed with 100%; in other words it was unbroken and that was sufficient to establish the integrity of the car, bearing in mind that this is a racing car.

As to physical originality, he frankly conceded that the car which was produced failed this test "dismally". It cannot by any stretch of the imagination claim to be the physical original of the winner of any of its races. This could only have been established when it drove across the winning line at the end of each race, or possibly when it was being driven back through France by the mechanics to Cricklewood before it was stripped down either in 1929 or 1930, or indeed after any of its other races.

As to owners intent, Mr. Hay did not think much of that as a test and attached very little importance, if any, to it in the context of the car. I take a slightly more generous view of that aspect. Intent of itself would of course be nothing. It may be the owner's or creator's intent to preserve the continuity of the car by building a replica, but that would in itself not make it a genuine car or authentic. However, in this case I think there is sufficient evidence for me to draw the inference that nothing that Captain Barnato did or said, or any of the contemporary evidence can be said to be inconsistent with an intent on his part, a desire on his part to preserve the continuity of the car in his own memory and in others'.

In somewhat strange circumstances, the original logbook was produced in court. It had fallen into the hands of a Mr. Llewellen who apparently had built a car around the registration number and sought to register it. The DVLC initially granted the request but it came to the notice of the Bentley Drivers Club. Their authentication committee reconsidered the matter and recommended to the DVLC that Mr. Llewellen's car should be de-registered and that it was appropriate to re-allocate the number to the car which was in the process of being rebuilt by Mr. Hubbard. The logbook and its continuation show a continuous history for the car between its first registration on 24th April 1929 until March 1939. The chassis number is shown throughout as LB2332. The engine number is shown as having been changed from LB2336, the 6.5 litre engine, to YH5127, the 8 litre engine.

The logbook also faithfully records the body changes and the change of the color from green, when it was first entered as a Bentley team car for the Le Mans race when the cars carried the traditional British racing green, to the maroon and black personal colors of Captain Barnato after the 1932 rebuild. Thus so far as the registration records are concerned the history of the car is continuous throughout its vital period of 1929 through to 1932 and thereafter to 1939 without a break.

There is no dispute that the car that Mr. Hubbard acquired from Stanley Mann was the car that can be traced from the car that Captain Barnato sold to Major Willard-White in 1936. Mr. Slowe submits that this record does not help to resolve the dispute as to whether or not a new car came into existence in the first Hassan rebuild. In a sense he is correct, but I have no doubt that those responsible were of such integrity that if a new car was created they would have recognized the necessity of surrendering the old registration documents and seeking a new registration for the new creation. This was not done.

The Bentley service records also show the car having a continuous history between 1929 and 1938. This series of documents carries less weight with me. I think Mr. Slowe is correct when he says that I should be slow to draw any inference in favor of the car when it is clear that the determining factor for the records is the chassis number which heads the records. Even if a new car had been created with a chassis upon which the old number was inscribed, the service records would have been identical. I think he is also right when he submits that as the racing shop records are no longer in existence I should attach even less weight to the Bentley records. To this extent the sub-structure upon which Mr. Hay's case is founded is weakened, but in my view not to any material degree.

I derive some assistance from some of the contemporaneous reports and documents from outside sources. In a letter dated 17th September 1931 Mr. Nobby Clark, who was in charge of racing shop, wrote to a gentleman in New Zealand about other

The Case of old Bentley Number 1

Bentley motor cars and having announced the sad fact that Bentley Motors Limited were in voluntary liquidation, went on:

"As a matter of interest, Captain Barnato has entered his old Le Mans type 6? litre for the Brooklands Racing Drivers' Club 500 miles flat out race in October. (That must mean 1931) we are preparing the car in the department here."

Thus Mr. Clark from his important position regarded the car that was being prepared and entered for the 1931 500 miles race as the car that had previously won Le Mans. This is totally inconsistent with the defendants case that the old car was destroyed and that a new car was being created. This letter is more consistent with the general attitude of the racing car fraternity including the drivers and the engineers' view that racing machines moved from race to race. "You repair and race," as Mr. Hubbard put it. I would add one gloss: you repair, research, develop and race.

The new parts incorporated into the rebuild did not destroy the old car but was part of the process of development of its racing career which, in the case of the car in question, was over four seasons and but for the fatal accident would have continued thereafter.

Three days after the crash the Motor Magazine published a long and graphic account of the 500 miles race. The significance of this report for the purpose of this case is two-fold. First, the author records that "Clive Dunfee was driving Old Number One, a

Bentley with a famous record which had been fitted for this race with an 8 litre engine instead of the original 6? litre power unit." This comment carries considerable weight with me. It is highly unlikely that if the historical continuity been broken, the contributor to such a prestigious magazine would have described the crashed car in such terms.

Secondly, however, there is a passage which reads:

"Still the fastest 500 miles race in the world, it might have been won at record speed but for the tragic accident in which Clive Dunfee lost his life and one of the fastest cars in the race was wrecked for ever."

Mr. Slowe relies upon this remark to show that the car ceased to exist. However, this was only three days after the race and before Wally Hassan had made his vital inspection and made the decision that it was only superficially damaged and that a rebuild was possible. I must also bear in mind that the defendant has never seriously contended that the 1932 post-crash rebuild was not a rebuild of the 1931 Brooklands car.

The East London Despatch, published in South Africa some weeks later, contained a report of the race and a tribute to Clive Dunfee:

"The particular Bentley which crashed to ruin on September 24 was the famous Old Number One which won the 500 miles race in 1929. Owned by Woolf Barnato who has since given up motor racing, it was fitted with an entirely new engine for this year's race. The old veteran was resuscitated once too often."

I must be careful not to regard this report as supporting the plaintiff's case. However, it is wholly inconsistent with the defendant's contentions. Likewise, in the Times report of 26th September 1932, on the Monday after the fatal accident on the previous Saturday, it is reported:

"Mr. Dunfee had much experience of the car he was driving when he was killed. In partnership with Mr. S.C.H. Davis he drove it into second place in the 500 miles race in 1929 when it

The Case of old Bentley Number 1
was fitted with its original 6 litre engine.

The car won the 500 miles race last year in the hands of Jack Dunfee and Cyril Paul. For this year's race the car had been fitted with an 8 litre Bentley engine."

Research has revealed that the Times reporter was Maynard Greville, a much respected commentator. These two articles again reveal the contemporary perception of the car, namely that it was the same car that had raced in 1929 and 1930 and again in 1931 and for the last time in 1932.

Mr. Sloane relied upon the sales particulars published by Jack Barclay Limited when the car was offered for sale in 1936. There is a reference to the engine number and the chassis number and the registration number, and rather beguilingly (secondhand). It is described:

"A special chassis built for Captain Woolf Barnato modified in 1932, 1933 and later."

There is no reference to the car as the 1929 or 1930 Le Mans winning car. Nor is there a reference to the fact that it was the car which was driven by Clive Dunfee when it crashed and he was killed. There may well have been good reasons for Jack Barclay not to divulge the previous history of the car, particularly the fact of the crash, when he was offering it for sale. I therefore attach no importance to it whatsoever.

Equally, I attach no importance to the fact that Michael Sedgewick, the curator of the Montague Motor Museum, wrote to the editor of the Standard in 1960 to the effect that Old Number One had been completely written off in a tragic crash at Brooklands in 1932. He later consulted with Mr. Ward, who by this time had acquired the car and subsequently wrote that he was misinformed that the car had been rebuilt after the disastrous crash. He went on to say:

"There is no doubt whatsoever that the car now owned by Mr. Ward is none other than Old Number One and
this has been confirmed by the Bentley Drivers Club."

Mr. Sedgewick was not called to give evidence, nor was his evidence put under the Civil Evidence Act. There is no evidence that he examined the car and he appears to have formed his revised view merely on what Mr. Ward told him. It was in Mr. Ward's interests to convince Mr. Sedgewick that he in fact owned Old Number One. Accordingly, I decline to put this correspondence in the scale on either side, save that it does confirm the defendant's contention that there was an informed body of opinion that the car was completely written off as a result of the 1932 crash.

I am satisfied that this body of opinion was totally misinformed and was totally unaware of the restoration work carried out by Wally Hassan which is now generally accepted as having restored the pre-crash car. In the course of evidence I was referred to many other articles and I have only picked out those which I consider to have been of any assistance to me when reaching the conclusion that I have.

Conclusions

I am satisfied that the car which was the subject matter of the contract for sale on 7th April is the Bentley known as Old Number One. The car can properly be referred to as Old Number One. This is borne out by the logbook, the Bentley service records, the Bentley Drivers Club register, the evidence of Wally Hassan, the evidence of Mrs. Walker, the evidence of Mr. Hay, the evidence of Mr. Guppy and the application of Hugh Young's criteria.

The name has been used to describe a particular racing Bentley in a succession of forms from its first registration, its first appearance in the Double 12 race at Brooklands in 1929 and successive races at Le Mans, Brooklands and other locations until it crashed, and thereafter when it was rebuilt in 1932.

I find that thereafter it continued to be known as and was properly called old Number One, until its reappearance in the United Kingdom in December 1988 and

The Case of old Bentley Number 1

its purchase by Edward Hubbard. I also find that the plaintiff has faithfully, sympathetically and accurately restored it to its last known racing form, i.e. the form it was in Brooklands in 1932 when it crashed. There has been no break in its historic continuity from the time when it first emerged from the racing shop in 1929 until today.

CLASSIFICATION

These findings are capable of further refinement and I turn to consider the car in the light of Jenkinson's classifications which were referred to in evidence and which are considered by many to be authoritative and helpful. For reasons of time and space I need not set out the original text of classifications. I consider only the relevant classification.

The car is not and cannot be considered to be, or be known properly as the "original" car which won either the 1929 or 1930 Le Mans. It would have to be composed of the same parts with which it left the racing shop or replaced by identical parts over the period of its existence, or the form for which it was prepared for the start of either race, or the form it was when it won. Degrees of originality, such as "nearly original", "almost original" or "completely original" have no meaning in the context of this car. It could properly only justify the description of "original" if it had remained in its 1929 Le Mans or Double Twelve form, even though such things as tires, radiator, fuel tank had to be replaced (more than once) due to the ravages of time or use.

It cannot properly be described as "Genuine" Old Number One. This is a broad and practical description but more befitting a racing car which has had an active continuous life with no occasion when it disappeared into limbo or changed its character in any way. Old Number One has had a continuous life. It has never disappeared into limbo. It is arguable that it changed its character when after the 1932 rebuild it had a fixed head coupe body and it was used for touring in the United States, or later when it underwent its Mark Quinney transformation to the sorry state in which the plaintiff first saw it.

It cannot properly be described, as the defendants in effect contend, as a mere "resurrection" (another of the Jenkinson descriptions). Neither after the 1931 rebuild nor after the crash in 1932 did it reach the end of its useful life. The car in its then form (on each occasion) did not die, was not abandoned nor cannibalized, nor gradually dismantled and used as a source of spare parts for other cars. It did not reach the stage that such components as existed were gathered together to form the basis of a new car "from the bare bones or ashes of the original another one appeared . . . a resurrection from the dead, or from the graveyard". In 1930, 1931 and 1932 I am satisfied it was rebuilt substantially from its component parts and remained throughout a living entity.

Even the defendants have not suggested the car was merely a "reconstruction" after the 1930, 1931 or 1932 rebuilds or in its present form. This expression is meant to cover a car which stems from a single original component, or a collection of components from a variety of cars and where there is little left of the original racing car except its history and its character. The defendants have not really attempted to stigmatize the car in that matter.

Can it be said that the car bearing the plates MT 3464 which I saw in Lincoln's Inn gardens, can properly be described as "authentic"? That description or classification of Jenkinson requires some careful consideration. (Quote the definition "authentic") It is true that it has had a checkered career, through no fault of its own. It was given a clean bill of health after the 1932 crash. It has, however, never disappeared from view. The entity or sum of the parts has always existed in some form or another and has now been put back to a specification that it was in at some known point in its history, namely the start of the fatal 1932 Brooklands race, with the exception of the color and possibly the detail of the rear suspension.

If anything, this car seems a better example of authenticity than that cited by Jenkinson. Here the entity which started life as a racing car never actually disappeared, so that the results of all the labors can justifiably be described as "authentic". At any one stage in its evolution it had indubitably retained its characteristics. Any new parts were assimilated into the whole at such a

The Case of old Bentley Number 1
rate and over such a period of time that they never caused the car to lose its identity which included the fact that it won the Le Mans race in two successive years. It had an unbroken period of four seasons in top-class racing. There is no other Bentley either extinct or extant which could legitimately lay claim to the title of Old Number One or its reputation. It was this history and reputation, as well as its metal, which was for sale on 7th April 1990.

Summary

Thus, in summary, the expression Old Number One is the famous name in history of vintage Bentley racing car. It is justifiably applied to the car which in a succession of forms raced at Le Mans between 1929 and 1932 when it crashed. It is the "authentic" "Old Number One".