

1813. gentleman of considerable influence among his friends in that district, was applied to by the appellant, to lend him his aid and assistance in introducing his spirits into the market there. Mr. Napier did not deal in the spirit line, but consented, on the offer of the appellant, to take the forty puncheons offered, with a view of disposing of it among a few of his friends, and agreeing to give bill at three months from the date of invoice and bill of lading, "provided I have 2½ per cent. commission on the transaction, which I presume you will not consider an unreasonable commission for my trouble and risk. Shipped free on board at Leith." The bargain was thus concluded. The appellant contended that, as his duty terminated by shipping the spirits on board at Leith, it was incumbent on the respondent to find a vessel. There were no regular packets plying between that port and Galloway, by which the appellant could send the spirits. He had looked out for such vessel, but could neither find such, nor any vessel at Leith which would take the cargo of forty puncheons. At last the appellant's traveller wrote the respondent, desiring a vessel to be sent for the spirits, this was agreed on. This vessel arrived in Leith, only after an additional duty had been laid on the spirits, and the appellant therefore declined to proceed with the bargain at the former price. In an action for implement and damages: Held the appellant liable in damages for failing to implement the contract of sale. Reversed in the House of Lords, and defences sustained, and defender (appellant) assoilzied.

For the Appellant, *Wm. Adam, Geo. Cranstoun.*

For the Respondent, *Sir Samuel Romilly, Fra. Horner.*

(Dow's Rep. vol. i. p. 223.)

ROBERT SHARP, and JOHN MACKENZIE, Merchants in Glasgow,	} <i>Appellants;</i>
MESSRS. BURY, LLOYD and COMPANY, Merchants and Calico-Printers in Manchester, and JOHN LANG, Writer in Glasgow, their Attorney,	
	} <i>Respondents.</i>

House of Lords, 17th May 1813.

SUBMISSION—DECREE ARBITRAL—SALE OF GOODS—QUALITY.

The appellants traded with America and the West Indies,

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in cotton goods; and they purchased largely from the respondents. They gave an order for goods, to the extent of £6000, to be exported to New York and the West Indies; on delivery of these, they objected to a great part of the goods as of inferior quality. This dispute was submitted to arbiters; and the arbiters found in favour of the respondents. The appellants then brought a reduction of the decree arbitral. The Court of Session repelled the reasons of reduction, sustained the defence, and decerned. Affirmed in the House of Lords.

WEBSTER  
v.  
CHRISTIE.

For Appellants, *Wm. Adam, J. Macfarlane.*

For Respondents, *Sir Samuel Romilly, Fra. Horner.*

(Dow's Rep. vol. i. p. 247.)

THOMAS WEBSTER, Merchant in Dundee, } *Appellants ;*  
and ROBERT JAMESON, W. S. }  
THOMAS CHRISTIE, Esq. of Phesdo, . *Respondent.*

House of Lords, 28th May 1813.

CAUTIONER FOR BANK AGENT — BOND OF RELIEF — FRAUD,  
CONCEALMENT, AND MISREPRESENTATION.

This was an action brought by the respondent upon a bond of relief granted by the appellants to him as security for his nephew, agent for the British Linen Co.'s Bank at Montrose. The defence stated to the action was, that at a time when the respondent knew his nephew's affairs were getting involved, and when he knew he should suffer a loss under his cautionary obligations to the bank, he had applied to the appellants to relieve him; and that they had been induced by fraud, concealment, and misrepresentation in regard to the nephew's affairs, to grant him the bond of relief in question. The nephew became bankrupt, with £3422 owing to the bank. The Court of Session held that the appellants had failed to state relevant facts to infer that the respondent had been guilty of fraud. Affirmed in the House of Lords.

For the Appellants, *Thos. W. Baird, J. Greenshields.*

For the Respondent, *W. Adam, W. Macdonald.*