

Respondents' Authorities.—1 Bell on Leases, p. 323, (Edit. 1825.) Hamilton, 15th May 19, 1826. Jan. 1824.—2 Shaw and Dunlop, No. 586. Gordon v. Falconer, 8th March 1822—1 Shaw's Reports, No. 440. Wemyss, 16th June 1801, (No. 7. ap. Tack.) Forrester, 10th Feb. 1808, (No. 16, ib.) Fraser, 7th March 1823. 2 Shaw and Dunlop, No. 256.

J. CHALMERS, J. CAMPBELL, Solicitors.

DAVID CARRICK BUCHANAN, Esq. Appellant.—*Bosanquet—Keay.* No. 16.
ROBERT MORRICE and Others, Respondents.—*Murray—Tindal.*

Society.—Circumstances in which it was held (affirming the judgment of the Court of Session) that certain shipments of goods to the Continent of Europe, during the war between France and Britain, made by an individual partner of a company, who was a citizen of America, belonged to him exclusively, and that his partner, who was a subject of Britain, had no claim to them, in consequence of letters written by him, disclaiming all connexion with the goods, although he alleged that these letters were written to deceive the enemy.

DAVID CARRICK BUCHANAN, a native of Britain, and resident May 19, 1826.
in London, was connected in several commercial copartneries in 2d DIVISION.
Virginia, with Robert and Allan Pollok, and Thomas Tredway. Lord Cringletie.
These houses were managed by the latter individuals; but there was also a London establishment connected with them, which was conducted by Buchanan, under the firm of David Buchanan. In this establishment he and Robert Pollok were alone partners.

Robert Pollok, who was an American citizen, made shipments of tobacco from Virginia to Holland, twice by the ship Mount Vernon in 1806, by the Alonzo in 1807, and again by the Mount Vernon in July 1807, during which time Britain was at war with Holland, then under the dominion of France, and the British Orders in Council were in force. These cargoes, which were taken by Pollok from the stock of the company at the regular prices, were sold in Rotterdam, and the proceeds remitted to Buchanan. Pollok having died in 1811, his representatives raised an action of compt and reckoning against Buchanan, in which the inquiry arose, whether the profits accruing upon these several shipments belonged to Pollok's representatives, or to the house of David Buchanan? In support of this claim, they founded on various letters by Buchanan to Pollok, declaring that he could have nothing to do with the cargoes, as he could not lawfully join in the adventure, and stating that they must be at the risk of Pollok alone. To this it was answered, that

May 19, 1826. the letters were mere 'show' letters, or colourable documents, to evade the existing laws, and reference was made to the books in evidence of this allegation.

The Lord Ordinary remitted to an accountant, to report a just statement of accounts between the parties, pointing out the balance, if any, to be due to either of them. Thereafter his Lordship, on advising an interim report, pronounced a judgment (with a note prefixed, containing his views of the case), finding that Mr Buchanan had no right nor title to participate in the four adventures, by the vessels Mount Vernon, and Alonzo; sustaining the claims of the pursuers to the same, and appointing the parties to state, whether there was any difference between them upon the amount of the claim as sustained, and finding Mr Buchanan liable in the expenses attending the discussion of this point. To this judgment the Court, on the 26th May 1825, on advising petition and answers, adhered.*

Lord Robertson.—This is a question of fact, to be decided from letters and documents. At the time of these shipments, Buchanan was in London, and subject to the laws of this country, and, consequently, could not carry on trade with the Continent of Europe with any safety. Accordingly he wrote to Pollok various letters disclaiming all connexion with the goods, and making him aware that, if he embarked in these speculations, they must be bona fide on his own account. It is impossible not to be satisfied that in writing these letters Buchanan expressed his genuine sentiments, and that, if a loss had been sustained, they would have been sufficient to protect him against liability. These letters were received and acted on by Pollok, and it is clearly established that the shipments were made after he had received them. The defender, however, alleges that these letters were mere covers; and pleads, that although he would not then incur the risk of smuggling, because it was attended with danger, yet, now that is removed, he is entitled to avail himself of such an unlawful transaction. We cannot, however, listen to such a plea; and there is not only no evidence of his allegation, but it is contradicted by his own letters.

Lord Glenlee.—I have some doubts in relation to two of these adventures, which appear to me to have been made with the goods of the company, and without their sanction. It has been said, that if there had been any loss, it must have been sustained by Pollok alone; but if he made gain by means of the company's property, is the company not to participate in that gain,

* See 4 Shaw and Dunlop, No. 30.

because the partner has, by his own tortious act, exposed himself to a liability for the total loss. Any permission to take the goods of the company was limited to those shipped by the Mount Vernon, but did not apply to the others; and, therefore, he was just in the situation of a partner trading with the company's property, without permission to that effect, and consequently he is bound to account to the company. May 19, 1826.

Lord Pitmilley.—The burden lies on Buchanan of establishing his claim, because *ex facie* of the documents the goods belonged to Pollok. He says, however, that these were merely 'show letters;' but there is no evidence of this; and even if there was, it is not relevant, and could not be listened to. Besides, it is proved that the goods were purchased by Pollok from the company at the usual prices.

Lord Alloway.—In general, I concur with Lords Robertson and Pitmilley, although I am certainly affected by Lord Glenlee's difficulties. To a certain extent this is a question of fact, but there is also a difficulty in point of law. I doubt whether a merchant in this country can here validly make a claim, resting on that which was contrary to the law at the date of the existence of the claim. Mr Buchanan knew that trade by British subjects with the Continent of Europe was prohibited by the Orders in Council, and that he could not have entered upon these speculations without acting contrary to law; and therefore I doubt extremely whether (even if the facts had stood differently from what they do) such a claim could have been made effectual in our Courts. The facts, however, appear to me conclusive from the evidence which has been produced; and the allegation that the letters were mere 'show letters,' is directly contradicted. In point of principle there is the difficulty stated by Lord Glenlee; but I think it is made out that it was arranged that Pollok was to get the goods at the usual sale prices, and accordingly he charged them to himself at a higher price than he sold them to others.

Lord Justice-Clerk.—I am satisfied from the correspondence that Pollok alone was concerned in these adventures, and that Buchanan can as little claim the profit as he could have been called on for the loss. Prior to the date of these transactions, a system had been adopted to avoid Buonaparte's decrees; and this country, in retaliation of these decrees, had recourse to the Orders in Council. The danger of trading then became extreme, both the vessel and cargo being exposed to the risk of forfeiture. In these circumstances Mr Buchanan writes letters, declaring that he would have nothing to do with the

May 19, 1826. shipments, and that they must be bona fide on account of Pollok. It is impossible to regard them as colourable documents. The full price was paid by Pollok for the goods, and therefore he cannot be accused of appropriating the company funds, and speculating with them on his own account.

Buchanan appealed.

Appellant.—The letters on which Pollok's representatives found, were written solely as a disguise to prevent condemnation in case of capture;—a device warranted, and in common practice, in consequence of the peculiar state of the commercial relations of the belligerent powers. In point of fact, these shipments were made with company tobacco, for the company account; and had a loss incurred, Buchanan must have borne his share. No doubt, it was not a trade that Buchanan would have chosen, had a choice existed, which explains many of the expressions in the correspondence; but he was forced to adapt his measures to the complexion of the times. Pollok was quite sensible that the house of David Buchanan were concerned in these risks, and evidence that the shipments were on account of the company, is to be found in the company books, and in the fact, that on sundry adventures of this very kind 'David Buchanan's' interest is admitted. He was an American citizen as well as Pollok; at all events, Pollok has no title to make the objection.

Respondents.—The four shipments in question were made to the continent by Robert Pollok, on his own risk, and on his own account, not only with Buchanan's sanction, but after Pollok had been expressly and anxiously prohibited by Buchanan from making any such shipments on the Company's account. At that time, in consequence of the Orders in Council, and the influence of the Emperor of France, it was illegal in a British subject to trade to Holland, which was an enemy's country, and consequently illegal to make shipments to Rotterdam; for this reason Buchanan had declared he would on no account be concerned in any trade of that kind, and that such shipments, if made, must be exclusively at Pollok's risk, and bona fide his property. Accordingly, on receiving advices of such shipments on Pollok's account, Buchanan expressed his satisfaction that he had no interest or share in them, and that they were on the account, and solely at the risk, of Pollok. But although it had now turned out that the shipments had been prosperous and productive, Buchanan could not claim a share, but was bound to account for the whole to his deceased partner's representatives; and in

support of this they referred to the correspondence and books of May 19, 1826. accounts of the parties. Besides, it was clearly an illegal traffic with regard to Buchanan; he could not claim any of the profits.

The House of Lords ordered and adjudged that the interlocutors complained of be affirmed.

LORD GIFFORD.—My Lords, the question in this case is a mere question of fact, which I cannot but regret that your Lordships should be called on to decide. The appellant in this case, and the two gentlemen named, Robert and Allan Pollok, were merchants in Virginia, carrying on trade in partnership together. One branch of the business was conducted in London, under the immediate management of the appellant. Another was established in Petersburg, in Virginia, under the firm of Buchanan and Pollok, and was managed by Robert Pollok. The company had also an establishment at Richmond, in Virginia, under the firm of Robert and Allan Pollok and Company, managed by Allan Pollok; and lastly, they had an establishment at Manchester, in Virginia, originally under the firm of Robert Pollok and Company, and afterwards under that of Pollok, Tredway, and Company, which was managed by Mr Tredway, who was a partner in this last branch.

It appears from these most voluminous proceedings, that, antecedent to the year 1806, the partnership had been engaged in commercial speculations in the name of the American house, consigning to ports in France and Holland the goods which were shipped; but it being discovered that by reason of Mr Buchanan being a resident in Great Britain, such transactions with the enemy were illegal, and that the cargo was liable to seizure, Mr Buchanan, in the year 1806, declined, in a correspondence to which I shall be obliged to advert, having any concern in such shipments in future. My Lords, after that period, three shipments were made on board the Mount Vernon, one in the month of April 1806, another in the month of November 1806, and the other in the month of July 1807; another in the month of July 1807, was made on board a ship called the Alonzo. All those shipments were finally destined to Rotterdam, where the cargoes were disposed of, and a question has arisen in these proceedings, respecting the manner in which the profits arising from those speculations are to be divided in account, that is to say, whether Mr Buchanan is a partner in the concern, and is entitled, as such partner, to a share in the profits of these adventures; or whether, in consequence of the effect of this correspondence in 1806, and the subsequent years, between him and Mr Pollok, they are not to be considered as the sole adventures of Mr Pollok, he being, on the one hand, to be considered as solely entitled to the profit, and, on the other, solely liable for the loss which might accrue from these adventures.

My Lords, it appears that Mr Robert Pollok died in the year 1811, and after his death, differences arising between his representatives and Mr Buchanan, respecting the partnership accounts, the respondents brought

May 19, 1826. an action of count and reckoning against Mr Buchanan. Mr Buchanan then raised a process of multiplepoinding against the representatives of Mr Pollok. The two actions were afterwards conjoined, and in that conjoined action the question I have stated to your Lordships arose.

The case came before the Lord Ordinary in the year 1824. I should, however, state, that some time before it came on for adjudication, a reference was made to an accountant on the nature of the accounts, the accounts kept by Mr Pollok in America, and Mr Buchanan in England—whether, from the nature of those accounts, any conclusion could be satisfactorily drawn. The result of the accountant's opinion was, that looking at those accounts, he considered those four adventures as the sole adventures of Mr Pollok, and that there was nothing in those accounts which fairly militated against such a conclusion. On the case coming before the Lord Ordinary, after that report had been made, he pronounced an interlocutor, accompanied by a very elaborate note, detailing the ground of his opinion. (Here his Lordship read the interlocutor.)

That opinion of the Lord Ordinary was brought under the review of the Court of Session, and after a very anxious and patient consideration of this subject, going through papers which embrace, as the Lord Ordinary states, no less than 990 pages of correspondence, they were all of opinion, and delivered their opinions at great length, that the conclusion drawn by the Lord Ordinary was right. One of the learned Judges seems to have entertained doubts with respect to the two last adventures, viz. the third voyage of the Mount Vernon, and the adventure by the Alonzo. Some of the other Judges seem to have been in some measure impressed with the doubts expressed by that very learned and able person, but the result of their determination was, that the Lord Ordinary's conclusion was right.

My Lords, this case has been brought by appeal before your Lordships, and it was very ably and very elaborately discussed at your Lordships' bar. I intimated, at the conclusion of that argument, that, notwithstanding the great bulk of those papers, and the mass of correspondence which has taken place between these parties, I considered it to be a duty to your Lordships that I should myself examine more attentively than I could do while the case was under discussion in your Lordships' House, that correspondence. My Lords, I have so done, and I will now state to your Lordships the result of the consideration which I have given to this case.

As I have already stated to your Lordships, anterior to the year 1806, it is undoubted that these persons had been engaged in illicit (as it regarded Mr Buchanan) adventures to the continent. We were at that time at war with Buonaparte, who was at that period in possession of that part of the continent to which these adventures were sent. Mr Buchanan discovered the peril that was run by those adventures, and, knowing that they were liable to seizure as British goods, and that, if seized, and it was discovered that any of the persons engaged in those adventures resided under the protection of Great Britain, they would be liable to forfeiture, he became alarmed; and he was the more so particularly with respect to the ship

Mount Vernon, which belonged to Mr Pollok ; he conceiving that there might be doubts entertained, in case of a capture, whether she was an American ship, which was an additional reason for caution. May 19, 1826.

In consequence of this impression, he, in the month of March 1806, wrote letters to Mr Pollok, then resident in America, expressly disclaiming any participation in the shipment which was then about to be made in the Mount Vernon for the Continent, and expressing generally his disinclination in future to be concerned in any such adventures. (In evidence of this, his Lordship read a letter from Mr Buchanan, of the 13th of January 1806.)

My Lords, I observe that in the Court below it seems at one time to have been contended, on the part of Mr Buchanan, that these letters were not to be considered as expressing the real sentiments of the writer, but that they were written to be produced in case of necessity, in order to cover the illegality of these transactions. But, my Lords, I do not think much stress was laid upon that circumstance at your Lordships' bar, nor do I think much stress could be laid upon it. These were private letters between Mr Buchanan and Mr Pollok, and I think it impossible to say that they did not express that which was at that time the real intention of Mr Buchanan. It appears evidently that he was resolved, at that time, to disentangle himself from any participation in any adventure to the Continent, in respect of any cargo sent in this vessel, the Mount Vernon.

My Lords, in a second letter, of the 22d of January, he expresses himself as follows : ' You, on account of your residing in America, are an American, therefore all shipments made to the Continent should be made in your own name, and, bona fide, your own property. The shipments per Brutus and Alliance are, I hope, wholly on your own account, at least, I must declare that I will have no concern in them. I have to desire you will make no shipments whatever to France ; but as a cargo to Holland may do in the spring, you may ship a cargo to Falmouth, and a market, pretty early, if the price is moderate, and you cannot sell to your mind ; but this cargo ship in your own name, and make an actual purchase of it at the bill price, and charge yourself with it on the books accordingly, so that the profit or loss may be your own, together with that of the other partners in America, as all my object is to get a remittance.'

After this, as I have stated to your Lordships, a shipment was made on board the Mount Vernon for Holland ; and it appears from the correspondence, that that shipment certainly was at the time considered as having been made by Mr Pollok on his own account, and not on account of this partnership. (In support of this, his Lordship here read letters of Mr Pollok of the 22d and 28th April 1806.)

My Lords, other letters follow, with which it is unnecessary for me to trouble your Lordships ; but in which the same expression, or singular expressions, occur, particularly a letter written to Mr Pollok, on the 5th of June 1806, in which he says, ' I notice the cargo of the Mount Vernon is entirely your own, which is so far well ; as on no account would

May 19, 1826. ' I wish to be concerned in any cargo going to the Continent, and the Continental market only is what would suit a cargo shipped at this season.' And in a subsequent letter, he expresses his determination, that he will not in future be concerned in any cargoes, except those which are consigned to a British port.

My Lords, a second shipment was made by the Mount Vernon, in the month of November, in the same year 1806; and upon that occasion, when the shipment was made, Mr Pollok advised Mr Buchanan that he had shipped on his own account 81 hogsheads, and the shippers from James Rivers 105 hogsheads. On the 26th of November, he also advised Mr Buchanan, that being unable to procure a charter for the Mount Vernon, he had sent her for freight to Rotterdam, procured 320 hogsheads for freight from sundries, and had determined to fill her up himself by a shipment of 81 hogsheads.

After that, in the month of July 1807, a third shipment was made on board the Mount Vernon, and also a shipment on board the Alonzo; with respect to the Mount Vernon, similar correspondence took place as with respect to the previous voyages. In a letter from Mr Pollok to Mr Buchanan, that the shipment was on his own account, he says, ' The Mount Vernon will also be a full ship by Saturday, and immediately proceed on her voyage to Rotterdam, having on board, for my account, subject to your control, 150 to 160 hogsheads of tobacco.' And with respect to the Alonzo, he writes that he had shipped on board 395 hogsheads on his own account. And, my Lords, there is a private letter, written by Mr Buchanan himself to his clerk, which has been referred to in the papers, (I do not find that it has been referred to in the judgment of the Learned Judges,) in which he speaks of the tobacco as being entirely Mr Pollok's, and the remainder of the cargo as belonging to Messrs Stotts. Your Lordships will also find, by a letter written by Mr Pollok to Messrs Warden and Sons, of 17th of September 1807, respecting a shipment then about to be made; he says, ' If shipped, the whole must be for the account of the writer, as though we be all American subjects, still as David Buchanan's residence is in England, by an agreement amongst the partners, all Continental shipments are at the exclusive risk of Robert Pollok.' This, as your Lordships will perceive from the date of the letter, was after the shipments by the Mount Vernon.

Now, my Lords, looking at this correspondence, I have asked myself this question: Supposing these adventures, instead of being fraudulent, had been legal adventures, could Mr Robert Pollok, after this correspondence, and after the express notice given to him by Mr Buchanan, that he would not be concerned in any one of them, claim against Mr Buchanan any part of the loss, that gentleman having expressly stated to him, that if such shipments were made by him, they must be made on Mr Robert Pollok's own account; and for the reason assigned by Mr Buchanan, which I should apprehend was a reason that would apply to a man of morality, that in case of capture he should be enabled to swear and to depose upon his oath, that the shipments were upon his sole account,

which, if Mr Buchanan was interested in them, it was impossible that he could do? Looking at these circumstances, my Lords, if a loss had ensued upon these adventures, could Mr Pollok, in the face of his correspondence, and after what had taken place between these parties, say to Mr Buchanan, Although you did desire me to ship upon my own account, although the shipments were made in my own name, although you directed they must be bona fide in my own name, it was covertly intended you should be concerned in those shipments; and I therefore call upon you to contribute—My Lords, I ask whether it would have been possible for Mr Pollok, under these circumstances, to fix Mr Buchanan with any part of the loss? I apprehend certainly not; and if he could not, then it is difficult to see how Mr Buchanan can claim a share of the profits.

But then it is said, you must look at the accounts which were kept at the time of this correspondence; and if you look at the accounts kept in London, whatever is the state of those kept by Mr Pollok, Mr Buchanan kept them as the accounts of a general speculation. Certainly, that is not so with respect to the three first adventures, which appear to have been kept in rather a different manner. With respect to the American house, it is quite clear that Mr Pollok kept those accounts differently from those of a joint speculation. My Lords, I should be sorry to venture myself to decide upon the nature of those accounts. The Court of Session had a difficulty in drawing a conclusion upon them, and they therefore referred them to a very intelligent accountant. He investigated these accounts, and produced an elaborate report to the Court of Session. What the result of his consideration of those accounts was, I have already stated to your Lordships—that they were not adverse to the claim set up by Mr Pollok, but were perfectly consistent with it—that they were more consistent with the notion that Mr Pollok was the person solely interested in these adventures, than that they were joint speculations. Upon the result, therefore, of these accounts, and upon the result of this correspondence, to which I have already adverted, the Court of Session, after, I would say, what appears to be a most anxious and careful examination of this correspondence, pronounced a judgment confirmatory of the very elaborate view taken of this case by the Lord Ordinary, before whom the case was heard, and who, as I have already stated to your Lordships, pronounced a very long judgment, explaining the grounds on which he came to this conclusion;—the Court adopted that view; and your Lordships are called upon to grant (if I may use the expression) a new trial upon this subject. In considering whether your Lordships will grant a farther inquiry into this subject, I apprehend it is the duty peculiarly of myself, whose assistance your Lordships have upon this occasion, to examine attentively the evidence given in the case, and to ask myself this question, whether the result of that evidence satisfies me that the Court of Session have come to a right conclusion, or whether it left the matter so much in doubt as that your Lordships should direct a farther investigation? My Lords, I am the more anxious upon the case, because it was represented at the Bar (as I believe the fact to be) that the deci-

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May 19, 1826. sion of this case involves a very considerable sum in point of amount ; that the profits of these adventures amount to several thousand pounds ; and that, therefore, it was a very material circumstance as affecting Mr Buchanan's rights with regard to this partnership.

My Lords, that rendered it a most anxious duty on my part to satisfy myself upon the subject. I can only say, that I have endeavoured to do so with the greatest care. I have read through what your Lordships will perceive to be an immense body of correspondence upon this subject, and I have endeavoured to understand the nature of the accounts.

I ought in the case, however, to state, that one argument used at your Lordships' bar was, that, assuming this to be so in the correspondence, and assuming it to be so in the American accounts, yet Mr Buchanan had transmitted his accounts to America, and therefore it ought to be presumed that Mr Pollok assented to the mode in which those accounts were kept. Mr Pollok, as I have stated to your Lordships, died in the year 1811 ; but it is alleged, that, during his lifetime, he was fully aware of the nature of this account, and that he does not appear to have made any objections, and that, therefore, he must be taken to have assented to the manner in which Mr Buchanan stated this account. Upon that part of the subject, however, I think there is some little obscurity in this case. But, my Lords, whatever might have been the accounts transmitted by Mr Buchanan, unless it can be shown, that, after that account had been so transmitted, there was an express acknowledgment, with a full knowledge of the circumstances, on the part of Mr Pollok ; that although he had engaged in those speculations, under the faith of those letters, made the shipments in his own name, and was therefore entitled to the whole profit ; unless it can be distinctly and clearly shown that he had expressly assented after the adventure had been made, and the sales had taken place, to an alteration in the nature of his engagements with his partner ; and unless it be made out on the face of this correspondence that there was an intention to let Mr Buchanan into a participation of those profits, I do not think the case, on Mr Buchanan's part, is made out. My Lords, looking as I have done at the immense body of correspondence, and the various circumstances, and after a consideration of the arguments in this case, far be it from me to say this was not a case of difficulty and perplexity, and requiring a great deal of attention, on the part of your Lordships, before you came to any definite conclusion upon the subject ; but I am satisfied upon it, so far as my humble endeavours have gone (and I can pledge myself that I have endeavoured to make myself master of the case), and, after an attentive consideration of the circumstances of this case, I must confess, that I am unable to come to a different conclusion from that at which the Court of Session arrived. I do not think there are sufficient circumstances in this case by which to distinguish the last cargo by the Mount Vernon and the cargo of the Alonzo, always bearing in mind that the case is weaker with respect to those two cargoes than to the two former ; but looking to the correspondence, not only the correspondence which took place upon the subject of those two adventures, but the whole

of the correspondence, it is clear that Mr Pollok considered those as made upon his own account. I am unable to come to a different conclusion from that to which the Court of Session arrived with respect to either of those cargoes; and therefore, after a most attentive consideration of the case, I am of opinion that I ought to advise your Lordships to affirm the judgment of the Court below. The case must be remitted back to the Court of Session to proceed farther, as there is one question still open in the taking those accounts. May 19, 1826.

My Lords, in this case I do not feel that I can advise your Lordships to give any costs. As I have already said, the evidence is strongly in favour of the conclusion to which the Court of Session arrived: but considering the complexity of the case, and the difficulty of it, I should advise your Lordships simply to affirm the interlocutors complained of, and to remit to the Court of Session to proceed therein as they shall think fit.

J. RICHARDSON—A. MUNDELL—Solicitors.

ADELIZA STRUTHERS and Others, Appellants.—*Robertson—Sandford.*

No. 17.

JOHN BARR, Respondent.

Society—Circumstances in which it was held *ex parte* (reversing the judgment of the Court of Session), that the extent of the interest of a partner in a company, where this was not fixed by contract, was not to be regulated by the amount of his input stock, as compared with that of the other partners, but that he was to be held as having an equal share.

IN 1792, John and James M'Ilwham, Alexander Spiers, and Robert Barr, formed a copartnership for the purpose of spinning cotton yarn at Crosslee, in Renfrewshire. The capital stock, the appellants stated, was fixed first at £4000, and afterwards at £5000, which was to be advanced in equal parts by the partners, and it was said each partner was to hold one third share. There was, however, no written contract. May 19, 1826.
1st DIVISION.
Lords Craig
and Alloway.

Innumerable disputes occurred between Barr, who had been intrusted with the active management, and his partners, which it is unnecessary to detail—a heavy loss was incurred—Barr was removed from the management—the mills were sold—and mutual actions, at the instance of the different parties, were instituted in the Court of Session in 1798. The principal question which occurred related to the extent of Barr's interest in the concern, and his consequent liability for the loss. He had advanced £1300 (which his partners maintained was less than the amount