

DICKSON & Co.
v.
DICKSON & SON.

proved, as bearing on the improbability of a fraudulent execution of the order.

The evidence on the other issue is shorter, but the principle is the same.

If you think such knowledge is made out as amounts to deceit or fraud, you will find for the pursuer, and assess the damages,—but if not, then for the defenders.

Verdict—“ For the defenders.”

Cockburn, Rutherford, and Aytoun, for the Pursuer.

Jeffrey, D. F., Skene, and G. G. Bell, for the defenders.

(Agents, *Aytoun and Greig*, w. s. and *Walter Dickson*, w s.)

PRESENT,

LORD CHIEF COMMISSIONER.

1830.
March 15.

DICKSON & Co. v. JAMES DICKSON & SON.

Finding for the defenders in an action against one company of merchants for executing an order intended for another.

THIS was an action by the defenders in the former case against the pursuer. The issues were two in number, and in substance the same as in the former case.

Skene opened for the pursuers, and stated the facts, and that the defender, knowing the

order was not intended for him, proceeded to execute it, and had recourse to a clumsy artifice to screen himself.

DICKSON & Co.
v.
 DICKSON & SON.

Cockburn opened for the defender.—As no attempt has been made to prove the first issue, it must be found for the defender.

A case of this sort must be proved as strictly as if it were a trial for a crime. The execution of the order is not well proved, but the important feature of the case is, that this order was sent to a gentleman, who, believing it to be intended for the pursuer, brought it to his shop. The clumsy artifice referred to, as inferring fraud, was, that the pursuer, when a question was raised about it, went to this gentleman, and got him to indorse the fact.

LORD CHIEF COMMISSIONER.—The first issue is abandoned. On the second, you must be satisfied that the pursuers have proved the defenders' knowledge before you can find for them. The order was intended for the pursuers, but Mr Nisbet, to whom it was transmitted, took it to the defender, and he has been called and proved the facts.

The whole case depends on your opinion on the note put on the order by Mr Nisbet, and the reference to the order of a former year ;

SASSEN
v.
CAMPBELL.

but this might escape the attention of a person who intended fairly. It is said the certificate is written for the purpose of covering the fraud ; but the question is, whether the defender may not have acted as fairly as Mr Nisbet, of whom there cannot be the slightest suspicion ?

You are to say whether it is made out distinctly, that Dickson of Hanover Street executed the order, knowing it to be for Dickson of Waterloo Place.

Verdict—“ For the defenders.”

Jeffrey, D. F., Skene, and G. G. Bell, for the Pursuers.

Cockburn, Rutherford, and Aytoun, for the Defenders.

(Agents, *Walter Dickson, w. s. and Aytoun and Greig, w. s.*)

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PRESENT,

LORDS CHIEF COMMISSIONERS AND CRINGLETIE.

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1830.
March 17.

SASSEN v. CAMPBELL.

Finding for the defender in an action for remuneration, and for expence incurred in executing business for the defender.

AN action to recover travelling expenses, and certain sums expended for the defender, and L. 1000 for the risk in carrying on his business and in coming from France to this country during the late war.