

owners of stage-coaches, or other carriages for hire, were not responsible for the safe conveyance of money which had been delivered as an ordinary parcel. "THE LORDS sustained the defences, and assolized."

No 10.

Lord Reporter, *Eskgrave.*Act. Dean of Faculty, *Hope.*Alt. *Maclaurin, J. Dickson.*Clerk, *Home.*C. *Fal. Dic. v. 4. p. 61. Fac. Col. No 308. p. 477.*1791. *January 15.* JAMES DENNISTON *against* WILLIAM HARKNESS.

No 11.

JAMES DENNISTON, of Glasgow, delivered a parcel of goods to William Harkness, a common carrier between Glasgow and Carlisle.

The parcel was addressed to Nathaniel Workington, at Oldham, near Manchester; and so it was described in Harkness's way-book.

Upon his arrival at Carlisle, Harkness delivered the parcel to Jonathan Wilson, a common carrier between Carlisle and Manchester, after receiving from him eightpence, as due for the carriage between Glasgow and Carlisle. He also saw the parcel marked in Wilson's way-book.

The parcel having been lost in its progress between Carlisle and Manchester, Denniston brought an action for the value against Harkness, as having undertaken the charge of it to the place of its destination.

In support of the action, Denniston examined several respectable merchants and carriers, who swore, that, according to the general understanding of people engaged in the trade, the defender was liable; and

Pleaded, By the entry in the carrier's way-book, describing the parcel as deliverable at Manchester, he clearly explained the nature and extent of his engagement; nor is this obviated by the circumstance of his terminating his own journey at a place not so far distant. Having the choice of the person to whom, on his arrival at Carlisle, the parcel was to be entrusted, his situation was the same, as if the parcel had still remained under his immediate care. This species of warranty, which, from the reciprocity of it among carriers, can be attended with little loss to them, is absolutely necessary for the safety of inland commerce; and it appears, from the evidence, to be thoroughly understood and followed in practice.

Answered, The entry in the way-book was evidently intended to describe the parcel, and not to extend the obligation of the carrier, in a manner quite inconsistent with the nature of his employment. It would be contrary to all reason, that a carrier of goods between Glasgow and Carlisle should answer for the conduct of another person, who is necessarily to have the charge of the goods at an after period; and the rate of hire received by him, which has no relation either to the length of the road through which the goods are to pass to their ultimate place of destination, or to their intrinsic value, but to their

A common carrier between Glasgow and Carlisle having undertaken the conveyance of goods intended for Manchester, found not liable for the loss of the goods between Carlisle and Manchester.

bulk and weight only, combined with the labour of the journey actually performed by him, puts this beyond the possibility of doubt. In the analogous case of goods entrusted to an inn-keeper, warehouse-man, or shipmaster, the obligation is confined to the things done in *caupona, navi vel stabulo, l. 7. D. Nautæ caup. stab.* Nor will the partial testimony of merchants, or the evidence of a few rival carriers, while no authority is derived from decisions of Courts of law, be deemed of sufficient importance to counterbalance the natural import of the agreement between the parties.

Chiefly moved by the evidence, which seemed to go far in showing the understanding of those conversant in the business,

THE LORD ORDINARY "Repelled the defences, and found the defender liable."

But, after advising a reclaiming petition, which was followed with answers,

THE LORDS altered the Lord Ordinary's interlocutor, and sustained the defences.

A reclaiming petition was preferred by the pursuer; but it was refused without answers.

Ordinary, <i>Lord Rockville.</i>	<i>Act. Rolland, Corbet.</i>	<i>Alt. Cay.</i>	<i>Clerk, Sinclair.</i>
<i>C.</i>	<i>Fol. Dic. v. 4. p. 61.</i>	<i>Fac. Coll. No 161. p. 323.</i>	

See PERICULUM.

See APPENDIX.