

It was ordered and adjudged, that the interlocutors complained of be, and the same are hereby affirmed.

For the Appellants, *John Clerk, Thos. W. Baird.*

For the Respondent, *Geo. Cranstoun, Fra. Horner.*

NOTE.—Unreported in the Court of Session.

1816.

LAWRIE, &C.

v.

LIVINGSTONE.

[Dow's Reports, vol. iv., p. 97.]

1816.

JOHN REID AND COY., Merchants in Glasgow, *Appellants*;

ROBERT HARVEY, ANDREW M'MILLAN and
Others, all Underwriters on the Ship } *Respondents.*
"Nancy," and ANDREW STEEL, W.S.,

REID, &C.

v.

HARVEY, &C.

House of Lords, 24th June 1816.

INSURANCE—CONCEALMENT—RUNNING SHIP.—In effecting an insurance on the cargo of a ship; held, that having concealed that the ship was a prize ship going home for condemnation, and not a British bottom, and that she was not to go with convoy, but to make a running voyage, the insured were not entitled to recover. Affirmed in the House of Lords.

Insurances were effected by the appellants on a cargo of fruit per the ship "Nancy," from Lisbon to Clyde, premium ten guineas, to return five per cent. *for convoy and arrival.*

On the same day that the appellants effected this insurance, they had received information by letter, stating that the "Nancy" was a ship going home for condemnation, and that she was a running ship, to sail without convoy, but these facts they concealed from the respondents at the time they insured. Five days after sailing she was taken by a Spanish privateer, and carried into Vigo; and the respondents refused to pay in consequence of the concealment of these material facts.

After various procedure in an action brought on the policies, the Court sustained the defences as to the concealment of these two facts, and assoilzied the respondents. And on two reclaiming petitions they adhered.

June 27, 1812.

June 25, and
July 1, 1813.

Against these interlocutors the present appeal was brought.

After hearing counsel,

The House of Lords affirmed the judgment of the Court of Session.

For Appellants, *J. A. Park, Jas. Wedderburn.*

For Respondents, *Sir Saml. Romilly, John Dickson.*