

1813.

(Dow's Rep. vol. i. p. 39.)

 BRUCE
 v.
 OGILVIE.

ROBERT BRUCE of Symbster, Esq.

Appellant ;

WM. OGILVIE, Merchant,

Respondent.

House of Lords, 31st May 1813.

PARTNERSHIP—LIABILITY—COMPENSATION.

The appellant was steward and factor to his uncle, John Bruce Stewart of Symbster, and he at sametime carried on some trade at Bigton in Shetland.

The respondent was engaged by him to assist him both in his stewardship and the trade. He was to have £10 a-year, and his board for his assistance in the former capacity, and was to have one-third of the profits of the trade, (he bearing a share of the loss in the same proportion) in the business of the trade.

The respondent managed the whole business of the latter partnership. At the termination of that partnership he brought the present action for £37. 17s. 3d., due him of wages, as assistant factor, and £63. 19s. due him on the partnership transactions. In defence, the appellant stated that the accounts, by which he brought out the balance on the partnership accounts, omitted to take into account a loss on tallow, bought by the respondent, which turned out so unfortunate a speculation, that a loss arose of no less than £330, all of which was paid by the appellant, so that when the pursuer debits himself with the third of this loss, instead of anything being due to him, the balance is against him: Held the appellant liable, and repelled his defences. Reversed in the House of Lords, and remit made to allow both parties a proof of the facts contained in their condescendence and answers respectively.

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

For the Respondent, *Wm. Alexander, Robt. Corbet.*