

Record.

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...and, and what may
...degree subsided,
...recent failures."

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...witnessed in this

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...more.

...the Appellant, in
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...tion of the goods.)

...of the season; did
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...ndent extended
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...ary power of the
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...i—l. 22 De Reg.
...stitute no good

5thly.

5thly.—There is no evidence of the prices at which the goods in dispute were purchased—nor of the time of the purchase—nor that, in point of fact, they were purchased for the Appellant—nor that they were charged at the usual and ordinary prices at which goods of a like description were, in the Spring of 1816, bought and sold in Great Britain.

6thly.—But the capital defect in the Respondent's evidence is, that he has not proved that he has paid for these goods at the prices charged by him—nor that he has paid for them at all. The act of an agent, within the scope of his authority, binds his principal. The furnishers of the goods, in Great Britain, have their remedy against the Respondent, and against the Appellant also. Until the debt was discharged by the Respondent, he had no recourse against the Appellant. His action, in technical language, is an action "for money laid out, expended and paid." The payment of the money by him, in discharge of the Appellant, constitutes the very gist of his action, and ought therefore to be strictly proved.

These are the principal objections to the final judgment rendered in the cause; yet the Court below, on 7th June, 1820, condemned the Appellant to pay to the Respondent the sum of £5746 4 1, *sig.* equal to £6384 13 5, currency, with interest thereon, from 28th of April, 1818, and costs.

There are two interlocutory orders in the cause, of which the Appellant also complains: the one, an order rejecting the application of the Appellant for a trial by Jury; the other, an order rejecting an application of the Appellant for a Commission to examine witnesses residing in Great Britain.

A. M. Ward

See Respondent's Case, Brit. p. 493.