

deed of composition was discussed save in the above remarkable words of Ashhurst, J. The judges were much impressed by the fraud which had been committed by the plaintiffs upon the other creditors in concealing from the latter the fact that they had made arrangements to receive payment of their claims in full. The principle involved in this case was recognised in *Jackson v. Lomas*, 1791⁹; *Sunner v. Brady*, 1791¹⁰; *Feise v. Randall*, 1795¹¹; *Leicester v. Rose*, 1803^{12a}; *Wheelwright v. Jackson*, 1813^{12a}; *Wells v. Girling*, 1819^{12b}, and *Mallalieu v. Hodgson*, 1851^{12c}.

The next important case which arose for decision was *Butler v. Rhodes*, 1794^{12d}. The plaintiff sued in assumpsit for goods sold and delivered. The defendant stated that he had proposed to his creditors to pay them a composition of 10s. in the pound and for that purpose to execute an assignment of all his effects to trustees for their benefit, that the plaintiff had consented to accept the composition, and had ordered a draft of the deed of assignment to be sent to his attorney for his perusal, which had been done, and his attorney had accordingly perused and approved it on his behalf; that in consequence the deed had been executed by the defendant, but that the plaintiff had refused to execute the deed. Lord Kenyon, Ch. J., ruled that this evidence was a complete answer to the plaintiff's action, and said that in consequence of this act of the plaintiff's the defendant had parted with all his property, and the other creditors had been induced to execute the deed^{12e}.

9. 4 T.R. 166.

10. 1 H. Bl. 647. See the judgment of Lord Loughborough.

11. 6 T. R. 146.

12. 4 East. 372.

12a. 5 Taunton. 109.

12b. 1 Brod. & Bing. 447.

12c. 16 Q.B. 689, 83 R.R. 679; cf. *Fawcett v. Gee*, 1797, 3 Anstr. 910; *Carey v. Barrett*, 1879, 4 C.P.D. 379, per Lord Coleridge, C.J., and *Lewis v. Jonas*, 1825, 4 B. & C. 506, 28 R.R. 360, per Bayley, J.

12d. Esp. 236; cf. *Brady v. Sheil*, 1807, 1 Camp. 147; and *Cork v. Saunders*, 1817, 1 B. & Ald. 46.

12e. Cf. *Tatlock v. Smith*, 1829, 3 Moo. & P. 676.