appeal should be allowed, and the order as to costs suggested by my noble friend on the Woolsack made.

LORD COLLINS—I agree.

Appeal sustained.

Counsel for the Appellants—Campbell, K.C. (of the Irish Bar)—Danckwerts, K.C. —E. A. Collins (of the Irish Bar). Agents —Le Brasseur & Oakley, Solicitors.

Counsel for the Respondents — C. A. O'Connor, K.C.—Ronan, K.C.—J. J. O'Brien, K.C.—P. A. O'C. White (all of the Irish Bar). Agent—R. Leslie S. Badham, Solicitor.

HOUSE OF LORDS.

Thursday, November 21, 1907.

(Before the Lord Chancellor (Loreburn), the Earl of Halsbury, Lords Macnaghten and Atkinson.)

CLIFFORD *v.* TIMMS.

(ON APPEAL FROM THE COURT OF APPEAL IN ENGLAND.)

Partnership — Dissolution — Dentist — Professional Misconduct.

A partnership contract between A and B, two dentists, provided that if either should "be guilty of professional misconduct or any act which is calculated to bring discredit upon or injure the other partner or the partnership business," the other should have the right to terminate the partnership. A joined with other persons in forming, and became a director and shareholder in, a company called the American Dental Institute, Limited. This company issued large numbers of advertisements, in which they praised their own work and products in the most extravagant terms, and at the same time decried those of rival practitioners in general, against whom they also made charges of moral misconduct.

Held that A's conduct was such as to entitle B to terminate the partnership under the clause above narrated.

Appeal from a judgment of the Court of Appeal (COZENS-HARDY, M.R., SIR J. GORELL BARNES, P., and BUCKLEY, L.J.), [1907] 2 Ch. 237, reversing a judgment of WARRINGTON, J., [1907] 1 Ch. 420.

The facts sufficiently appear from the rubric and the Lord Chancellor's opinion, *infra*.

LORD CHANCELLOR (LOREBURN)—I am of opinion that this appeal must be dismissed. The question is whether a particular dental practitioner has been guilty of professional misconduct and thus enabled his partner to cancel the arrangement between them. I do not think it in the least necessary to enter upon the legal question, interesting as it may be, which was discussed so much in the Court of Appeal. It seems to me to be a matter of indifference whether the order made by the General Medical Council be admitted in evidence or be excluded. What seems to me quite clear is this—that the form of advertisement which was sanctioned by the gentleman in question amounted in the circumstances to professional misconduct. I will not dwell upon the case. There was profuse advertisement in every form of self-praise and self-commendation on the part of this company and of those who carried on business under its authority. For the present purpose it is enough to say that there were two particular advertisements which I consider to be thoroughly discreditable, and to amount to professional misconduct of a serious and inexcusable kind. One of them was that which related to a suggestion that most, or nearly all, other dental practitioners omitted the necessary precaution of sterilising their instruments, whereas those who carried on the business of this company were careful not to omit that precaution. Now that was a peculiarly dangerous form of disparagement levelled against other practitioners, because it was not levelled against any one in particular, and therefore the falsity of it could not have been vindicated in any action. The second instance, which I deprecate still more strongly, is the report of an interview which appeared in the *Review of Reviews*, and contained the undisguised suggestion that in cases—I will not apply strictly the numerical test suggested in the *Review*—but in cases of English dentists it was at all events a not uncommon thing that disgraceful advantage should be taken by the operator, in the case of a woman, of the absence of some other woman to guard her honour. I can see nothing that can justify anything of that kind. It has all the elements of disgraceful imputation—it is so general that it cannot be denied, that it cannot be proved, and that it cannot be made the subject of investigation; yet it suggests to those who are sensitive about the honour of others who belong to them the most powerful motive to avoid other establishments and to seek relief from those who are engaged by this company, with the object and with the result of pecuniary profit. For my part, if this be not disgraceful conduct, if it be not professional misconduct, I know not what the terms mean.

EARL OF HALSBURY—I entirely agree.

LORD MACNAGHTEN—I agree.

LORD ATKINSON—I agree.

Appeal dismissed.

Counsel for the Appellant—Sir R. Finlay, K.C.—H. Terrell, K.C.—Houston. Agent —H. Percy Becher, Solicitor.

Counsel for the Respondent—Buckmaster, K.C.—Buckley. Agent—Samuel Lithgow, Solicitor.

HOUSE OF LORDS.

Thursday, November 21, 1907.

(Before the Lord Chancellor (Loreburn), the Earl of Halsbury, Lords Macnaghten and Atkinson.)

NELSON LINE, LIMITED *v.* JAMES NELSON & SONS, LIMITED.

(On Appeal from the Court of Appeal in England.)

Ship—Duty of Shipowners to Provide Seaworthy Ship—Damaged Cargo—Effect of Ambiguous Clause of Exception.

The law imposes on shipowners, in a question with those to whom they charter their vessels, a general duty of providing a seaworthy ship, and of using reasonable care in everything which pertains to her. They may, it is true, contract themselves out of those duties, but the contract must be a clear one—"an ambiguous document is no protection." Terms of a document which were *held* too ambiguous to relieve shipowners of their duty to provide a ship fit to carry her cargo.

Appeal from a judgment of the Court of Appeal (Collins, M.R., Cozens-Hardy and Moulton, L.JJ.), reported (1907) 1 K.B. 769, affirming a judgment of Bray, J., at the trial before him with a jury.

The facts sufficiently appear from the judgment of the Lord Chancellor (Loreburn) *infra.*

The material clauses of the contract were the following:—Clause 10 — "The owners are not to be liable for any loss, damage, prejudice, or delay wherever or whenever occurring caused by the act of God, the King's enemies, pirates, robbers, thieves, whether on board or not, by land or sea, and whether in the employ of the owners or not, barratry of masters or mariners, adverse claims, restraint of princes, rulers, and people, strikes, or lock-outs, or labour disturbances or hindrances, whether afloat or ashore, or from any of the following perils, viz., insufficiency of wrappers, rust, vermin, breakage, evaporation, decay, sweating, explosion, heat, fire, before or after loading in the ship or after discharge, and at any time or place whatever, bursting of boilers, nor for unseaworthiness or unfitness at any time of loading or of commencing or of resuming the voyage or otherwise, and whether arising from breakage of shafts or any latent defect in hull, boilers, machinery, equipment, or appurtenances, refrigerating or electric engines or machinery, or in the chambers or any part thereof, or their insulation or any of their appurtenances, or from the consequences of any damage or injury thereto, however such damage or injury be caused, provided all reasonable means have been taken to provide against unseaworthiness, collision, stranding, jettison, or other perils of the sea, rivers, or navigation of whatever nature or kind, and howsoever such collision, stranding, or other perils may be caused, and the owners not being liable for any damage or detriment to the goods which is capable of being covered by insurance, or has been wholly or in part paid by insurance, nor for any claim of which written notice has not been given to the owners within forty-eight hours after date of final discharge of the steamer. The above-mentioned exceptions shall apply whether the same be directly or indirectly caused or shall arise by reason of any act, neglect, or default of the stevedores, master, mariners, pilots, engineers, refrigerating engineers, tug-boats or their crews, or other persons of whatsoever description or employment, and whether employed ashore, on board, or otherwise, for whose acts or defaults the owners would in anywise in connection with the execution of this charter otherwise be responsible. . . ."

Clause 18 contained the words—"The protection given by this article to the owners is intended to be in addition to that given by art. 10, but is subject to the proviso as to taking means to prevent unseaworthiness therein contained."

Lord Chancellor (Loreburn) — The plaintiffs shipped a cargo of meat on the defendants' vessel under an agreement of the 18th June 1904. The cargo was lost by reason of the vessel's unseaworthiness, which was due to the defendants' negligence, and in this action the sole question is, whether or not they are freed from liability by certain words in the agreement. If the words are considered by themselves they seem to excuse the shipowners not merely from this but from any imaginable liability except such as by law cannot be underwritten. They run as follows:—"The owners not being liable for any damage or detriment to the goods which is capable of being covered by insurance, or has been wholly or in part paid for by insurance." But the whole agreement must be regarded, and especially the context of the clause in which this alleged exemption occurs. The words in question do not stand by themselves; they are at the end of a very long sentence, the earlier part of which is wholly without effect if the last part means what the defendants maintain. Beyond that there are two potent considerations weighing heavily against the defendants. One is that in this clause the words in dispute are preceded by an express provision dealing with the very subject of unseaworthiness and negligence, which would be flatly contradicted and overruled by the defendants' interpretation, and yet there follows immediately another sentence which assumes that this express provision is still operative. The other consideration is that in the 18th clause, which is a later clause, the language is again used which shows that the parties supposed this same express provision still to be operative, whereas on the defendants' construction it had ceased to have any effect. I am aware that on the alternative interpretation there would also be