

GRAHAM, E.J.:—The plaintiff had a through ticket from Boston to St. Peters of the Boston & Maine Railroad Company, the last stage of the journey being over the line of the defendant company, viz., between Point Tupper and St. Peters. He checked his luggage through, namely, 2 trunks, and having an excess of luggage, viz., 45 lbs. charged at 88 cents, it was sent forward to its destination at St. Peters with a collection ticket attached to the trunk in question to be collected there. One of the trunks contained a relative's articles, and it went safely.

The plaintiff arrived at St. Peters on the evening of Thursday the 16th January, 1908. His trunk (the one in question) and a trunk of one Murdock McKillop, which had been delayed, arrived there by the same train.

McKillop's brother Angus presented his check, and the baggage master not noticing that the numbers on the checks did not correspond, in mistake gave him the plaintiff's trunk, which he took home to Framboise, 30 miles distant.

The next day the plaintiff presented his check for his own trunk and of course it was not there. The defendant got into communication with McKillop that day. Angus McKillop arrived home with the plaintiff's trunk on Friday, having sojourned one night on the way. It remained at McKillop's from Friday to the following Tuesday. Murdock McKillop knew that it was not his own trunk, but he opened it to learn whose trunk it was, he says; and the fact, was discovered by an envelope found in it addressed to the plaintiff.

On Tuesday Murdock McKillop returned the trunk as far as Grand River, where he left it in charge of the postmaster, to be forwarded by the mail couriers. One mail courier took it to Lower L'Ardoise, and another mail courier took it from there to the defendant at St. Peters. This was about Thursday or Friday, about a week after it had first arrived there. It was stored over night at Grand River, and from there to St. Peters it has not a continuous journey. On the following Sunday the plaintiff was informed of its return. Later he called for it, and it was opened and examined in his presence. The plaintiff says that there had been removed from the trunk the following articles: 1 coat, 1 corduroy coat, 1 pair trousers, 1 hat, 2 pair low shoes, 1 carriage rubber coat, 1 pair leather gloves, and 2 pairs of socks, all worth about \$41.10; also \$75 in money,