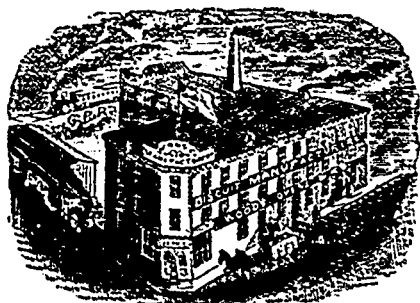


price at which the firm should sell the flour. No bill of lading was sent the appellees, but at the time of the shipment a shipping receipt was taken from the railroad company for the flour, and that, with a draft on the appellees for \$500, was placed in bank for transmission to Baltimore, but was subsequently withdrawn and was never sent. Subsequent to the shipment to the appellees Merian & Co. received an order for flour from the appellants, and decided to change the shipment and to send to the appellants this car of flour on their order with a bill of lading. Accordingly the Chicago agent of the railroad company was telegraphed to hold the flour, as Merian wished to change the consignment to the appellants; but in the meantime the flour came to Baltimore labeled for the appellees and was delivered to them. The bill of lading in favor of the appellants, with a draft on them for \$615, was presented by Merian to the Security Bank of Minnesota, and the draft was cashed by the bank, when sent both bill of lading and draft to the Bank of Commerce in Baltimore, to which bank the appellants paid the draft, and received in consideration of such payment the bill of lading for the flour. Ascertaining that the flour had been received by the appellees, the appellants demanded payment of the same, and the Baltimore & Ohio Railroad, the carriers of the cargo, demanded the flour. The lower court decided that the appellees were entitled to it; but the Court of Appeals held that the appellants were the proper custodians of the flour, having ordered and paid for it, the appellees not having ordered it, and that they had the right to maintain their action in the case.—*Broad-street's*.

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