

fact been sold. Hearn, in his evidence taken under commission, swore that his firm had not bought or agreed to buy the 170 bags of clover seed in question, and had refused acceptance of the draft made by plaintiff on them because they had not bought, and by reason of the falling market. Plaintiff himself in his evidence also stated there was no actual sale.

There was a fall in the market price of clover in England from January, and the seed was not sold till the 2nd of July, when it sold for thirty-seven shillings per hundred weight of 112 pounds. The evidence was not very precise as to the actual fall in price of seed at any stated period.

Taylor, who was examined as a witness for the plaintiff, stated that the price ranged from forty-four to forty-six, between the 10th and end of February, and thirty-six to thirty-nine from the beginning of March to the middle of April; and Goodwin M. Shaw, a witness for defendants, put it from thirty-seven and six to forty-four during March. His firm had not imported any earlier than March, in 1880, and he could not give the prices ruling in February. In April they ruled from thirty-three shillings and six pence, to thirty-eight shillings and six pence. By the end of April the sowing trade is over. The agent of plaintiff, Taylor, in his evidence, in answer to the question, why he did not sell the seed sooner, said he had no chance, not being in a position to do so, without first submitting it, meaning any offer, to the bank.

At the close of plaintiff's case counsel for defendants objected that the plaintiff had not made out a case, on the ground that the goods having been shipped at Waterford by an agent of the defendants there, there was no authority in Barr, the agent at Toronto, to change a bill of lading given by another agent. From his position it would be implied that he had power to receive goods and issue bills of lading, but no other power could be inferred, and none was proved: that there was no proof of express authority to alter a bill of lading granted by the company; but if the defendants could be held liable there could be no