

there to defendants, and he signed a bill of lading, undertaking to transport and deliver the wheat to the address on the margin of the bill of lading, viz., to the order of Reynolds Bros., as follows:

“Order Reynolds Bros. Notify Crane & Baird, Montreal, P. Q. Care St. Lawrence & Chicago Forwarding Company at Portsmouth harbor near Kingston, Lake Ontario.”

The plaintiffs represented that this address meant that the cargo was to be delivered at Portsmouth to the care of defendants, to be by them carried to Montreal and delivered there to the order of Reynolds Bros., notifying Crane & Baird, however, of its arrival at Montreal. That Becker gave the original bill of lading to Reynolds Bros., and kept the duplicate himself; that Reynolds Bros. endorsed and delivered the original bill of lading to Crane & Baird, and they by endorsement ordered the defendants represented by their agent D. McPhee, to deliver to Beddall & Co., of Montreal, 15,500 bushels of wheat. The order is as follows:—

“D. McPhee. Deliver to Messrs. Beddall & Co. or order 15,500 bushels of within cargo, we paying all freight and charges. Crane & Baird.”

That Crane & Baird after having endorsed the original bill of lading delivered it to Beddall & Co., who thereby became legal owners of the 15,500 bushels of wheat. That by the custom of trade, when grain is thus consigned, under a bill of lading made in this way, it is the practice for the companies to whose care it is addressed, to carry it and deliver it at Montreal according to the terms of the bill of lading or the instructions of the master of the schooner who first took charge of it. That about the 15th September, 1880, Beddall & Co., being holders of the bill of lading, and proprietors of the 15,500 bushels of wheat, obtained from plaintiffs on the security of the bill of lading an advance of \$16,275, and transferred the bill of lading to plaintiffs, authorizing them to sell the wheat in the event of Beddall & Co. failing to repay the advance to the Bank. That the “Falmouth” arrived at Portsmouth on the 8th September, and delivered its cargo to the defendants, who received it on the barge Mohawk, undertaking to deliver it at Montreal according to the bill of lading. That in delivering the wheat to defendants, Becker communicated to

them the copy of the bill of lading, and they by their agent McFarlane received it and obliged themselves to deliver it at Montreal, by writing across the copy a receipt for the wheat, and undertaking to deliver it to the order of Reynolds Bros. That when the grain arrived at Montreal about Sept. 11, 1880, the defendants delivered it to persons unknown to plaintiffs, without requiring the production of the original bill of lading belonging to plaintiffs, and without the production of the copy or duplicate which remained in Becker's hands. The plaintiffs asked \$20,000 as the value of the 15,500 bushels of wheat, in default of delivery.

The defence was that the defendants were not parties in any way to the bill of lading, but entered into a distinct agreement with Crane & Baird at Montreal. That the Falmouth arrived at Portsmouth, Sept. 6, 1880, and its cargo was put on board the Mohawk without delay. That another cargo consigned to Crane & Baird arrived at the same time, and 4,000 bushels were put on board the Mohawk and the balance carried to Montreal by the Alfred. That on the 11th Sept., 1880, on the arrival of these vessels at Montreal, their cargoes were transhipped by order of Crane & Baird, and on the 14th Sept., Crane & Baird endorsed the bill of lading in favor of Beddall & Co. for 15,500 bushels. That this endorsement being only for a part of the quantity mentioned in the bill of lading was invalid, and gave Beddall & Co. no right in the cargo. That plaintiffs, having been guilty of gross negligence in not notifying defendants after they knew of the arrival of the wheat at Montreal, should alone suffer by such negligence. That on 14th September, Crane & Baird gave to Beddall & Co. for the same 15,500 bushels an order dated 11th September addressed to defendants, to deliver them to Beddall & Co., and that in fact there were 15,486 bushels delivered. That these deliveries were made without giving up the original bill of lading of the Falmouth or any other. That, in fact, the plaintiffs were aware of the delivery of the grain to Beddall & Co., and had authorized them to ship it to Europe.

The plaintiffs by their special answer denied that they had any knowledge of the delivery of 11th September.

PER CURIAM. Serious irregularities have