

Canada, and in consideration thereof defendants agreed to pay to the plaintiff a certain royalty on a minimum quantity to be manufactured by defendants, the quantity running into the millions, and increasing year by year up to a certain period. Tried at Toronto.

C. S. MacInnes, K.C. and C. C. Robinson, for plaintiffs.

G. F. Shepley, K.C., and G. H. Kilmer, K.C., for defendants.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The patented envelope was alleged by plaintiffs and was supposed to be so constructed that circulars and other printed matter within the classification of third-class postal matter enclosed therein, were secured from falling out of the envelope and were secret, but that the end of the envelope being open, the rate of postage would be that payable in respect of third-class matter which was much less than the usual letter rate.

Section 82 of the Postal Regulations of the Dominion of Canada provides as follows: "Every packet of printed or miscellaneous matter, must be put up in such a way as to admit of the contents being easily examined. For the greater security of the contents, however, it may be tied with a string. Postmasters are authorised to cut the string in such cases if necessary to enable them to examine the contents; whenever they do so they will again tie up the packet."

It is claimed by defendants, and I find to be proved, that the envelope in question when in use and in transit through the mails cannot be opened so as to allow the contents to be examined and replaced without destroying the envelope. The vice-president of the plaintiff company, H. A. Swigert, made a demonstration of the envelope in the witness box, and manifestly somewhat to his own surprise did succeed in opening one without destroying the envelope; but no unskilled person could possibly do so, and no postmaster or post office clerk endeavouring to open it in accordance with the regulations could do so without destroying the envelope, except occasionally and by accident.

The device is as follows; one of the end flaps terminates in a hook of this shape, (exhibits 7 A. B. C. & D.)