

Without reference then, to the missing goods now sued for at all, there was, when they stopped selling on the 21st October, in the hands of their agents, the third parties, sufficient, and more than sufficient to satisfy the defendants' claim in full, and this being so, I fail to see the relevancy of the bill of lading or *The Bankers Leather Co. v. Royal Mail Steamship Co.*, or *Marriott v. Yeoward*, [1909] 2 K. B. 987, or *Glyn Mills and Co. v. East and West India Dock Co.*, 7 A. C. 591, or the Merchants Shipping Act to this case. The transit was completed, the bailment was at an end, the money owing the defendants was in the hands of their agents, and the plaintiff thereupon became entitled to an immediate delivery of her goods and payment of the surplus moneys or damages to the extent of their value.

As already intimated, I find that the missing goods were delivered to the third parties as part of the contents of the 97 cases or packages. These are enumerated and described in exhibit No. 14, and are valued at \$1,168.75. The third parties called expert witnesses to value a set of china, not now in question, but have not questioned the value put upon these articles by the plaintiff and her husband—except the packing cases, and some papers hereinafter referred to, although I have no doubt that many of these things could, upon the description given of them, be appraised by the experts who were in Court. I might, therefore, be said to be bound to accept Tom Swale's evidence as the only evidence of value before me. Undoubtedly men have a tendency to over-value their own belongings. This would apply to the ordinary goods. There were a lot of rare and exceptionally valuable things in this list, and these I think he would be liable to undervalue, and I might perhaps safely accept Swale's valuation as a whole, except as to the papers claimed for. There is a possible question of breakage too—though not discussed. The missing articles that could be broken would not represent more than \$150—and they were generally small articles not very liable to break—10 per cent. or 15 per cent. would probably be a reasonable estimate, but this is all very speculative. I have given this matter very careful thought, but I cannot overcome altogether the want of evidence.

The total of these articles is \$1,168 75

Take off

China case returned \$100 00