

MEREDITH, J.

APRIL 14TH, 1903.

TRIAL.

ST. MARY'S CREAMERY CO. v. GRAND TRUNK R.
W. CO.*Railway—Carriage of Goods—Injury to Goods by Negligence—Shipping Bill—Bill of Lading—Conditions Limiting Liability—Insurance on Goods.*

Action for damages for loss of butter shipped by plaintiffs from St. Mary's, Ontario, to Manchester, England, under a "through" contract made with defendants.

J. Idington, K.C., and L. Harstone, St. Mary's, for plaintiffs.

W. Cassels, K.C., and Forster, for defendants.

MEREDITH, J.—Plaintiffs' cheese and butter are sent in large quantities to Manchester, upon through contracts made with defendants. The dealings between the parties in regard to such carriage have been large and have extended over some length of time. Such dealings have been and are conducted in this manner. Plaintiffs apply to defendants' agent at St. Mary's for a through rate, and for space upon a steamship for their goods, and, upon being satisfied as to these things send them, with a shipping bill, signed in their behalf to their authorized officer or servant, to defendants' receiving sheds or cars at St. Mary's. Upon receipt of the goods, the defendants' agent at St. Mary's delivers to plaintiffs a formal bill of lading, and thereafter the goods are despatched.

The plaintiffs' course of business has been, and is, to indorse the bill in favour of their agent at Manchester, and forward it by mail to him, and also to send a telegraphic despatch to him, apprising him of the shipment, so as to give him timely notice, in order that he shall arrange for the receiving and sale of the goods, and that he shall effect insurance upon them. The insurance is of a somewhat different character from that with which most of us are familiar. It was, and is, effected in Manchester, through the plaintiffs' agent there. A policy of a very general character was obtained from the Baden Marine Insurance Company, Limited, of Mannheim, Germany, dated at Manchester on the 13th day of December, 1900, under which that company took upon itself insurance of the plaintiffs to the amount of £10,281; and agreed and declared that the insurance should be (lost or not lost) at and from "by rail to Portland and for Halifax and for St. John thence to U. K. ports," and that the subject matter should be and is, upon "butter and for cheese, as in-