December, 1915; (4) that at that time the defendants had the right to sell the goods, and no agreement waiving that right was made by the defendants down to the 18th January, 1916; (5) that on the last-named day the plaintiffs requested the chief agent of the defendants at Galt to deliver the goods to them (the plaintiffs), and undertook to pay the charges thereon, and that undertaking was accepted by the agent on behalf of the defendants, and prepayment or tender of the charges was thereby effectually waived, and the agent, on that day, wired the defendants' officer at Toronto to return the goods to Galt, but at that date the goods had been forwarded to Montreal to be sold there; (6) that there was delay in communicating the request to the proper authority at Montreal, which delay arose from the negligence of the defendants' clerks, and, in consequence of this delay, the notification to return the goods did not reach the proper hands in Montreal until after the goods had been sold on the 21st January, 1916.

Upon these findings, the defendants were liable.

The shipping order contained the following provision: "The amount of any loss or damage for which the carrier is liable shall be computed on the basis of the value of the goods at the place and time of shipment under this bill of lading (including the freight and other charges, if paid, and the duty, if paid or payable and not refunded), unless a lower value has been represented in writing by the shipper, or has been agreed upon or is determined by the classification or tariff upon which the rate is based, in any of which events such lower value shall be the amount to govern such computation, whether or not such loss or damage occurs from negligence."

While the defendants held the goods on the 21st January as warehousemen, they were still carriers within the above provision. When the stipulation is one which, by its terms, is to apply to a state of things which might arise after the goods had arrived at their destination, it remains in force notwithstanding that the transit is ended. The defendants were entitled to the benefit of this provision.

Swale v. Canadian Pacific R.W. Co. (1913), 29 O.L.R. 634, distinguished.

Mayer v. Grand Trunk R.W. Co. (1880), 31 U.C.C.P. 248, referred to.

The only evidence as to the value of the goods at the date of their receipt by the defendants in 1915 was that the plaintiffs paid for them 16½ cents a square foot. Upon this basis, there should be judgment for the plaintiffs for $1,487.56, with costs.