

The action was tried without a jury at Toronto.

Shirley Denison, K.C., and W. J. Beaton, for the plaintiffs.

Angus MacMurchy, K.C. and J. Q. Maunsell, for the defendants the Canadian Pacific Railway Company.

J. M. Ferguson and W. C. LaMarsh, for the defendants the Pere Marquette Railway Company.

MASTEN, J., in a written judgment, said that the plaintiffs purchased the goods from the Mueller Manufacturing Company Limited, of Sarnia. It was said that the consignors shipped the goods in a box-car, No. 41599, over the Pere Marquette line; that the Pere Marquette Railway Company received the car, and at Chatham transferred it, as directed, to the Canadian Pacific Railway Company for transmission to Toronto; that 19,744 forgings were shipped in the car, but only 15,867 were received, leaving a deficiency of 3,838, for which the plaintiffs sought to charge the defendants at the rate of 46 cents per forging.

The crucial point in the case was, whether the plaintiffs had brought home the loss to the railway companies.

In the view of the learned Judge, the plaintiffs had failed to satisfy the onus cast upon them of establishing how many forgings there were in the car at the time they took possession of it.

The liability of the defendants as carriers ceased when the plaintiffs took possession of the car; and from that time the defendants were warehousemen and liable only if negligence on their part was established. No such negligence was established—on the contrary, all reasonable precautions were taken by the Canadian Pacific Railway Company.

Action dismissed with costs.

KELLY, J.

DECEMBER 27TH, 1919.

REX v. BUCHENOR.

Criminal Law—Defamatory Libel—Conviction—Costs—Criminal Code, sec. 1044.

Prosecution for a defamatory libel.

The trial took place before KELLY, J., and a jury, at Sandwich.
J. M. Pike, K.C., for the Crown.
W. H. Furlong, for the defendant.

KELLY, J., in a written judgment, said that the defendant was convicted of publishing a defamatory libel. When the learned