

had become the purchasers of the seed, at forty-six shillings per 112 pounds, and it was to meet their request the destination of the consignment was changed to London. The plaintiff discounted the draft, so drawn by him, with the Merchants' Bank, endorsing the bill of lading to the bank as security for the acceptance and payment of the draft.

The agent of the company (McIlhenny) at New York, seeing that the seed came through bonded for shipment to Liverpool, sent it forward according to the terms of the first bills of lading, by the Inman Line, and it reached Liverpool in due time. He also immediately notified the agent Barr of the mistake and shipment to Liverpool, and requested him to notify the plaintiff; and about the 27th and 28th January, while the seed was still at sea, Barr called at the plaintiff's office to inform him of what had been done and to request him to accept delivery at Liverpool. Plaintiff was absent, and the matter was explained to his clerk. Sometime between 28th January and 4th February Barr saw the plaintiff, and plaintiff's evidence of what took place between them was: "I said to him, that is unfortunate, and I said if the seed can be sold in Liverpool without any loss I don't mind, but if there is any trouble or any loss in the matter, I shall certainly hold the company responsible." Barr's account did not substantially differ from the plaintiff's.

The draft of plaintiff on the supposed purchaser was returned about 13th February, protested for non-acceptance by the agents in London of the Merchants' Bank, the Clydesdale Bank; and up to this time the plaintiff had not informed the bank of the fact that the seed had been shipped to Liverpool, nor had he taken any steps to have the seed accepted at Liverpool, or to advise the holders of the bill of exchange and bill of lading of the change that had taken place in the destination of the seed. After being advised by the Merchants' Bank of the protest of the bill of exchange for non-acceptance he authorized the bank to send a cablegram to the Clydesdale Bank to have the