

"Q. But there was an order made for particulars afterwards, and it was the result of that order made subsequently, that you made out this formal list? A. That I could not tell you; it has been made since.

"Q. It would be some time since? A. Yes.

"Q. What basis had you, when you made out the formal list, what were you depending on in inserting those articles? A. Prior to calling in Davis, Turner & Co. of Liverpool to take delivery of the goods at Monmouth, I went through the house and made a complete list of everything that was in there, and I also made a complete list of everything that was put into each individual case that I packed myself. When I got the black book home the list I had at home, I compared it with this list, and that is how I make up my list of missing articles."

The evidence given by the third parties accounts very fully for the receipt of the cases and the seven or eight opened in the land (owing to their size, making it impossible to take them in to the elevator), the contents of the latter being stored on top of the other pieces in the cellar. No one had access to the cellar except employees of Suckling, and all the keys of the warehouse are accounted for. The evidence of Jenkins, coupled with that of Suckling's employees, traces the contents of all the pieces up to the floor above Suckling's trade sales room. The room on this floor was hired for the sale, and was part of the premises of one Sanderson. It was sworn to and not questioned that so far as display, publicity and general conduct of the sale were concerned, everything was done to produce what, in the estimation of all, was a most successful result. This is concurred in by the respondent and by his counsel at the trial. This is most important as the complaint with which this action was begun has been continued and is limited to this, that the missing goods were abstracted. Counsel for the respondent during the trial at p. 159, after stating that he had no complaint as to the way the goods were sold, adds: "The only complaint I have is about the way the goods were exhibited," and then explains: "In regard to dealing with the goods shipped, for instance, they might be easily abstracted or lost." In the examination of T. Swale he had asked him, speaking of the Brussels carpet, "unless it was sold and included in the sale your theory would be that it had been stolen," to which Swale answered,