

and the morning of Monday the 19th, they were badly damaged by frost. It was impossible, except as a matter of probability, to say just when the damage was done.

The learned Judge also found that the plaintiff was notified on the morning of Friday the 16th that the potatoes had arrived on the previous evening at the point to which they were consigned, and that he went out to the defendants' freight station on the afternoon of that day; and time began to run against him from Friday morning, when he had knowledge of the arrival of the car.

On the lapse of a reasonable time after knowledge on the part of a consignee of the arrival of the goods at their destination, the liability of the carriers undergoes a change, and they are thereafter responsible as warehousemen only—that is, merely for negligence: *Richardson v. Canadian Pacific R.W. Co.* (1890), 19 O.R. 369; *Grand Trunk R.W. Co. v. McMillan* (1889), 16 Can. S.C.R. 543, 555. What is a reasonable time depends on the circumstances of the particular case: *Chapman v. Great Western R.W.Co.* (1880), 5 Q.B.D. 278, 281, 282.

In this case the most obvious circumstances were the known susceptibility of potatoes to damage from frost, their shipment in midwinter from a point well to the north in Quebec, the intensity of the cold continuously prevailing during loading and transit, the delay after notice of arrival, the greater danger from frost while the car was not in motion, and the proximate incidence of a Sunday, when unloading would be illegal and further exposure inevitable.

Merely as a matter of convenience, the plaintiff desired the defendants to switch the car to the exchange tracks of a connecting railway.

After Friday evening—a reasonable time for unloading having elapsed—the defendants were liable only as bailees. Negligence subsequent to that time not having been proved against them, their only liability as carriers was for acts done or omitted before Friday evening, unless their position was altered to their prejudice by the switching contract made with the plaintiff.

By the conditions of the bill of lading, the defendants were made responsible for any loss to the plaintiff caused by the act, neglect, or default of the Grand Trunk Railway Company, to whose tracks the car was removed, and must satisfy the Court that the plaintiff's loss was not so caused. The onus thus cast upon the defendants had been fully discharged. Affirmative proof had been given that the loss was not caused by and did not result from the act, neglect, or default of the other carrier. The car was promptly moved, the heaters were in good order and burning on Sunday morning when inspected, and on Tuesday, when the car was opened. It was fairly to be inferred that they were burning during the interval.