

So holding, I think, under the law and the facts, that the application should be granted and the place of trial changed to the county of Annapolis, district No. 3.

Costs to be costs in the cause.

The plaintiff subsequently discontinued the action.

NOVA SCOTIA.

SUPREME COURT.

MEAGHER, J.

SEPTEMBER 9TH, 1908.

MACKENZIE, CROWE & CO. v. C. P. R.

The Railway Act, 1903—Validity of By-law Made under the Railway Act of 1888—Conditions Limiting Liability of Railway Company not Approved by the Board—Notice of Loss of Goods within Thirty-six Hours—Privity of Contract between Shipper and Second Carrier.

In June, 1904, plaintiffs shipped 11 cases of larrigans to Winnipeg. The goods were delivered to the D. A. R., which reaches St. John, N.B. The receipt for the goods issued by the D. A. R. was as follows:—

Received from MacKenzie, Crowe & Co., the undermentioned property in apparent good order, addressed to H. G. Middleton & Co., Winnipeg, Manitoba, to be sent by the said company, subject to the terms and conditions stated above and on the other side, and agreed to by the shipping note delivered to the company at the time of giving this receipt therefor.

At the foot of this receipt were written the words: "Ship C. P. R." The 10th condition on the back of the receipt was in the following form:—

10. That all goods addressed to consignees at points beyond the places at which the Company have stations, and respecting which no direction to the contrary shall have been received at these stations, will be forwarded to their destination by public carrier or otherwise as opportunity may offer, without any claim for delay against the Company for want