

Railway Company, are a number of printed general terms and conditions forming part of the contract, and which have been approved by the Board of Railway Commissioners, one of which, number 12, reads: "There shall be no claim for damage to, loss of, or detention of, any goods for which the company is accountable, unless notice in writing and the particulars of the claim for said loss, damage, or detention, are given to the station freight agent at or nearest to the place of delivery, within 36 hours after the goods is respect of which said claim is made, or such portion of them as are not lost or delivered."

If the proper construction of this condition is, that the plaintiff was bound to give notice in writing and particulars of his claim for detention to the station freight agent at or nearest to the place of delivery within 36 hours after the goods were delivered, I would have to find, upon the evidence, that such notice was not given within the specified time.

The defendants contend that this is the proper construction of the condition, and rely upon this condition and its non-fulfilment as a defence to the action under *Mercer v. Canadian Pacific R. W. Co.*, 17 O. L. R. 585, and cases cited at p. 482 of *Jacob's Railway Law*. . . .

The plaintiff urged that the language of the condition does not bear the construction contended for by the defendants, and cannot be so interpreted without substituting the words "are delivered" for "or delivered" in the last line, and that there is nothing in the context to warrant this being done. . . .

Bearing in mind that the subject matter to which the shipping bill, with its several terms and conditions, relates, is the carriage and delivery of the goods in question, I think the plain intention of the parties, gathered from the context of the condition, was to provide for a notice being given to the agent . . . within 36 hours after delivery, and that the word "or" was a misprint for "are." . . .

[Reference to *Stone v. Corporation of Yeovil*, 1 C. P. D. 691, 701; *In re Redfern*, 6 Ch. D. 133, 136; *Maxwell on Interpretation of Statutes*, 3rd ed., p. 344; *Wilson v. Wilson*, 4 H. L. C. 40, 66; *Key v. Key*, 4 D. M. & G. 73, 84; *Mourmand v. Le Clair*, [1903] 2 K. B. 216; *Grennell v. Monk* (1899), 24 L. R. Ir. 241; *Coles v. Hulme*, 8 B. & C. 569.]

Action dismissed without costs.