

There are certain salient facts in connection with the case which strongly tend to the conclusion arrived at. It is unquestioned that two bales consigned to Morris arrived in Montreal on the steamer "Canada" of the Dominion Line. These bales were numbered M. 773 and L.M. 450. Apparently no invoice had been received for bale No. 450, but an invoice for bale No. 500 was in the possession of Morris. The agent of Morris, Greene, paid the freight of the Dominion Line for two bales; he also paid the customs dues for two bales. It is proved, I think clearly, that bale No. 450 which arrived by the "Canada" was delivered in lieu of bale No. 500. No doubt this was a mistake; but there is no question on the evidence but that the two bales had arrived, one numbered 773 and the other numbered 450, and that both of these bales were consigned to Morris. Number 773 was detained for examination at the custom house, and was delivered to Morris on the 4th September; and the other bale 450 was delivered to Mullaly's carter, one Wallace, on the 3rd September. In his evidence M. L. Morris stated as follows: He is referring to other bales delivered on the 3rd September. He is asked this question:—

"Q. Where did they come from? A. I think they came from the steamship company's.

"Q. Do you know which company? A. I could not say, because we passed entries for sometimes two or three bales, or sometimes one bale, or sometimes half a dozen bales a day. Sometimes we would get three or four bales from the same place. Mr. Mullaly was our carter, and Mr. Mullaly's men would bring them to the store."

Under section 183 of the statute, it is provided that the Court shall hear and consider such matter upon the papers and evidence referred, and upon any further evidence, etc.

Wallace, the carter, who delivered the bale is dead. His affidavit was before the Minister, and he swears to the delivery of the bale 450 on the 3rd September. I quite agree that there having been no opportunity of cross-examination, the statement in the affidavit are not as effective as if the witness had been examined in Court, and counsel for Morris had the opportunity to cross-examine him. He is corroborated by Bushel, who gave his evidence clearly, and I do not think his evidence in any way is shaken by the cross-examination. There can be no doubt, whatever, on the evidence, that these two bales, 773 and 450, were intended for Morris,