

that that was known to the carrier at the time when the bills of lading were signed." The learned Judge then proceeds to give reasons why either of those conclusions would be improbable in that case.

The present case is one of mixed carriage, part being by land and part by sea, and I assume a voyage across the Atlantic may in one sense be deemed a long sea voyage, though with the steamers now in use it is really not a longer voyage than one by rail across this continent from ocean to ocean. The uncertainty of a sea voyage, however, is so much greater than one by rail, that the distinction laid down by Sir George Mellish may very properly, and without detriment to commercial interests, be held to apply to the contract in this case. I shall refer to several authorities to see whether or not the fall in the market value of an article is in fact a measure of damage, where a carrier has failed to perform his contract to carry by a specified time, or in due course, or, which is the same thing, within a reasonable time, no matter what may be the article carried.

In the case of the "Parana," Lord Justice Mellish, in reference to the cases in which it has been so decided, said, p. 121: "If goods are sent by a carrier to be sold at a particular market; if, for instance, beasts are sent by railway to be sold at Smithfield, or fish is sent to be sold at Billingsgate, and by reason of delay on the part of the carrier, they have not arrived in time for the market, no doubt damages for the loss of market may be recovered. So, if goods are sent for the purpose of being sold in a particular season, when they are sold at a higher price than they are at other times; and if, by reason of breach of contract, they do not arrive in time, damages for loss of market may be recovered. Or, if it is known to both parties that the goods will sell at a better price if they arrive at one time than if they arrive at a later time, that may be a ground for giving damages for their arriving too late and selling for a lower sum."

He adopts the view of the principle on which damages are awarded, stated by Cockburn, L. C. J., in *Simpson v. London and North Western R. W. Co.*, 1 Q. B. D. 277, thus: