

# The Legal News.

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## THE LIABILITY OF TELEGRAPH COMPANIES.

An illustration of the difficulty which sometimes occurs in applying the old and well established principles of law to the complications of modern business, is afforded by the case of *Dickson v. Reuter's Telegraph Co.*, which recently came before the Common Pleas Division in England, whose judgment has been affirmed by the Court of Appeal. Some of the Judges of English and American Courts seem to have been puzzled as to the light in which telegraph companies should be regarded. Should they be treated as common carriers, and bound by the strict rules applicable to common carriers? That is the view which has been adopted by certain Courts in the United States. Are they merely bailees for reward, liable only for gross negligence to the sender or sendee of the message? That is a modification of the common carrier doctrine, which has been preferred by other American Judges. But the English Courts have accepted neither definition. They exempt telegraph companies from any responsibility not arising directly from contract, and under this rule the Common Pleas Division have rejected the claim of *Dickson & Co.* against the Reuter's Telegraph Company, though it must be acknowledged that the plaintiffs had suffered a serious injury through a mistake made by the defendants.

It was a case of a telegram being delivered to the wrong party, but neither the sender of the message nor the person to whom it should have been delivered complained of this, but the actual recipient who, assuming that the message was intended for him, took action thereon which involved him in heavy loss. The facts were these. The plaintiffs were merchants at Valparaiso, being a branch of a firm carrying on business under a different style at Liverpool. The telegraph company, defendants, had its chief office in London, with agencies at Liverpool and elsewhere, but not at

Valparaiso. They had a system, however, of forwarding the messages of several senders in what is termed a "packed telegram," each message being distinguished by a cipher known to the defendants and their agents, and to the senders. On receipt of the "packed telegrams" by the defendants' agents, the several messages were transmitted to their proper recipients. In December, 1874, the plaintiffs at Valparaiso received a message transmitted by the defendants from Monte Video (where they had an agency), purporting to be an order, from the plaintiffs' Liverpool house, for a large quantity of barley. No such message was, in fact, sent by the Liverpool firm, nor was the message intended for the plaintiffs; but the latter, believing the message to have been duly sent, proceeded to execute the order. The misdelivery of the message was caused by the negligence of an agent of the defendants, and resulted in a serious loss to the plaintiffs, the price of barley having fallen in the market.

It was under these circumstances that the plaintiffs, having undoubtedly been wronged, cast about for a remedy. They could not sue the sender of the message, because he never intended that the plaintiffs should get it, and he could not be held liable, unless the telegraph company could be considered his agents—like a clerk carrying a verbal message for his employer—a view which does not seem to have been entertained anywhere. The plaintiffs, therefore, not being able to sue the sender, tried to make the telegraph company responsible for the consequences of the blunder. The liability of the company was sought to be established on three distinct grounds: First, because they had made to the plaintiffs a statement false to their knowledge, or rather false in this respect, that they might have acquainted themselves with the fact that it was untrue. Second, it was contended that the defendants were liable, upon a suggested analogy between this case and that of *Collen v. Wright*, 7 E. & B. 301, in which the rule was laid down, that a person professing to contract for another, impliedly, if not expressly, undertakes to or promises the person who enters into such contract upon the faith of the professed agent being duly authorized, that the authority which he professes to have does in point of fact exist. And the third and last contention of the plain-