

packages, as all the cases are shewn to be of dimensions much larger than two feet or two feet six square.

So far then as what was packed by Swale, the packer's list does not help. It was prepared and is stamped 1st July, 1908, and rather indicates a re-packing of what Swale had packed and delivered. Swale, however, says he recognized in Suckling's warehouse some of these cases packed by him, which evidence, in its turn, rebuts that inference. These were (1) the oak chest opened by Jenkins, and which itself sold; (2) gray box with hinges; (3) two deal boxes; and (4) flat wooden box; and he saw the typewriter stand, brussels carpet, fitted luncheon basket, two pair garden shears, one having brass syringe, wolf skin robe. He got the things taken before the sale, which are given on his list, the things he bought, also listed, and afterwards the grandfather clock, the carved walnut mirror, the table cover and linen sheets, the Chippendale chairs and the Sevres china, since paid for.

This is the whole of his identification of the goods packed by him. Of these Suckling says he saw the brussels carpet in lot 168, and the wolf robe in the pile of rugs sold, so that the identification is confined, apart from those taken by him before the sale, those sold to him and those sold to the public, to a typewriter stand, a fitted luncheon basket, two pair garden shears, and a brass syringe, all valued at \$26.25.

The history of the goods which he alleged were packed by Davies, Turner & Co. is as follows: He produces as Exhibit 21, a list of goods that were in the house at Monmouth previous to being packed. The list, he says, was an inventory taken by him in Monmouth before they were shipped. They were put, unpacked, into large vans, sent to Liverpool and packed there by Davies, Turner & Co. in their warehouse. These he never saw after they were taken loose into the vans. Exhibit 22, the shipping list is an inventory taken by Davies, Turner & Co.'s men before the goods left Monmouth and is unverified. Exhibit 23, the packer's list, came, so Swale says, with the bill of lading, but it is also unverified. The appellant's argument is that any of these goods were liable to abstraction in the vans, and in Davies Turner warehouse and that some may have been forgotten and that the small cases into which Swale packed his goods, were also subject to the same contingency.

To found a claim upon the railway company here or