

# LEGAL SIGNIFICANCE OF COMMERCIAL TERM F.O.B.

Judgment Delivered by the Court of Appeals in Montreal on a Potato Deal---Potatoes Shipped from Summerville to Montreal--- Court Held That Property Passed to Buyer in Shipment.

A ruling bearing on the legal significance that is to be attached to the commercial term f. o. b. was given this week by Mr. Justice Greenshields presiding in the Court of Appeals. It grants the appeal of Brace McKay and Company, Limited, and reserves a judgment of the Superior Court which dismissed appellant's claim against William Schmidt and Company, to recover \$1,054.04 alleged to be due on a consignment of potatoes.

Brace, McKay and Co., of Summerside, Prince Edward Island, shipped a car load of potatoes "f. o. b. Summerside to Mile End Station, Montreal," on the order of William Schmidt and Co., trading as the St. Louis Grain & Feed Company. The potatoes reached Montreal on July 4, 1917, but Schmidt and Co. refused to accept the goods because the vendors declined to allow the potatoes to be examined and inspected on their arrival here. They pleaded that the potatoes had been sold "f. o. b." Summerside, and "stock guaranteed good when shipped."

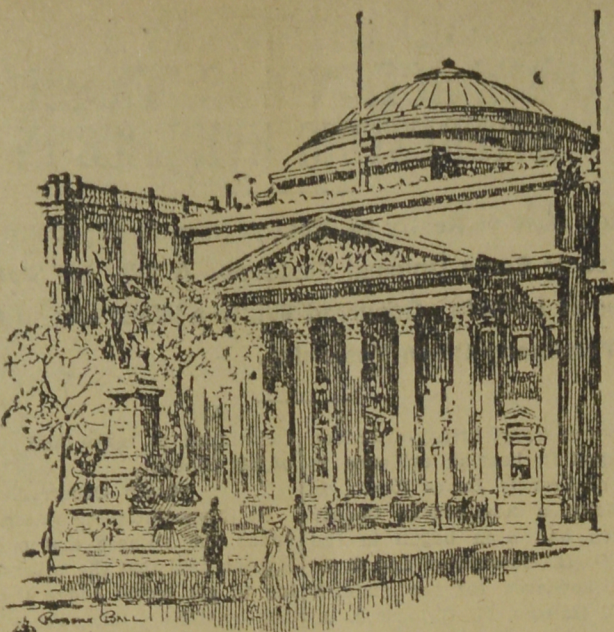
The vendors sued for the value of the potatoes, but their action was dismissed, the lower court holding that the contract called for, and plaintiffs intended to make delivery of the potatoes in Montreal; that the effect of the bill of lading was to reserve ownership of the goods in plaintiffs, and there was no delivery, within the meaning of article 1492 of the Civil Code, to defendants at Summerside; that the ownership of the potatoes did not pass to defendants at Summerside that the defendants had the right to inspect the potatoes on arrival in Montreal to satisfy themselves that they were in accordance with the contract; and that in refusing to allow the inspection of the potatoes plaintiffs failed to perform their contract and defendants were thereupon released from it.

**The Judgement**  
Justice Greenshields: "The proof in the present case is clear that upon the confirmation of the contract, the potatoes necessary to fill the contract were put in bags and loaded on the only means of conveyance necessary to bring them to Montreal I have no doubt whatever that the property in

those potatoes passed to the buyer, and that from and after the loading of them upon the car they were at the risk of the buyer, and were his property. The seller had fulfilled his contract. There was something that the buyer had to do. He had contracted to do it, and that was, to pay cash for these goods. The seller, the appellant was well within his rights in taking all the steps necessary to secure the fulfillment by the respondents of what they had contracted to do. He had contracted to certain means to secure this result. He might have adopted a different means. The contract gives no term for payment; therefore, it is a cash transaction.

"The appellant took the bill of lading in its own name; endorsed it to its bankers, and attached a sight draft and instructed the bank to deliver the bill of lading, not upon receiving the cash, but upon acceptance of the draft, which would give the buyer from three to five days within which to secure the money to pay the draft. The trial judge is of the opinion that this process amounted to the retention by the seller of the ownership of the goods. I am not of that opinion. It is not a retention of the right of disposal 'jus disponendi' as known to the English law. It is a mode of securing to the seller the fulfillment of the buyer's obligations to pay cash for the goods.

**Responsibility on Buyer**  
"If a merchant or dealer sees fit to buy goods at a distance of 800 miles, and stipulates in the contract that he buys them f. o. b. at point of shipment, and agrees to pay cash or cash against documents, then he must do one of two things—inspect them before they are shipped, or pay for them without inspection, if inspection necessitates the physical possession by him of the goods. In the present case no suggestion is made that the potatoes were not all that the contract called for. The only assigned reasons for refusal is that inspection was refused. If the potatoes had deteriorated between the point of shipment and the destination, the loss would be upon the buyer. If respondents had inspected the goods in Montreal, the



## Consult Our Branch Manager On Financial Matters

FARMERS too often consider that a checking account is the only service our bank has to offer them.

THROUGH our various branches we offer farmers throughout Canada the same complete and attentive banking service that we afford to other Canadian business men. There is no financial problem connected with your farm which cannot be solved more satisfactorily through co-operation with the Bank of Montreal.

Our Branch Manager will be glad to have you confer with him regarding all such matters.

## BANK OF MONTREAL

Established over 100 years

Branches in all important centres in Canada  
Savings Departments at all branches  
TOTAL ASSETS in excess of \$500,000,000

respondents would be inspecting their own goods. I am of opinion that the judgment should be reversed and the action of the appellants maintained."

### HIS OBJECT.

"I am going on a trip to Europe as soon as I possibly can.

"Do you want to get a close view of the wonderful reconstruction abroad?" "No, I want to get a drink."

"What do you think you will make out of my daughter's talents?"

Absent-minded Professor—"About five dollars a lesson, if the piano holds out."

## WILL MEAN CHEAPER CANDY

Montreal, Nov 5—Those who depend on the grocer and the confectioner for goodies will be pleased to learn that biscuits and candy have followed sugar and are now being sold for from two to five cents less than formerly. A large Montreal manufacturer announced this morning that his firm had already lowered the price of biscuits two cents a pound, owing to the cheaper sugar, and that candy had gone down five cents.

The lowering cost of flour had been offset by an increase in lard it was stated, and he was of the opinion that unless the unexpected happened there would be no further decrease until the end of the year. Even then, any change in January's prices would be slight. If labor costs were lessened the consumer would benefit by a material drop, but he did not anticipate any reduction in wages just now. If the cost of food were reduced, however the workmen would have to accept lower salaries.

A representative of a prominent local wholesale firm said that his biscuits had come down five cents in price. Sweetened chocolate of all kinds was cheaper and a fall in all sorts of commodities containing sugar was imminent.

## TO SEARCH FOR SPANISH GOLD

Special to Daily Mail. Copyright 1920 by Cross Atlantic News Service  
Glasgow Oct. 30 (By Mail)—The first woman in Scotland to engage in deep-sea diving is Miss Naylor, who is a member of the syndicate staff at Tobermory, Argyllshire, where a sunken Spanish galleon is being searched for. She has taken part in the actual diving operations, carrying a weight of about 192 pounds in regulation diving dress, and working at the bottom of the bay.

In 1906 the bay was carefully examined to a depth of between 25 and 40 feet, and in 1920 it was again gone over systematically for three months with a steam driven boring machine.

### MARITAL AMENITIES.

He—"Don't try to make a fool of me."  
She—"How could I? Haven't you always bragged of being a self-made man?"

The shooting season is at its height.

## NO MORE WARS, SAY WOMEN OF THE WORLD

Special to Daily Mail. Copyright 1920 by Cross Atlantic News Service

Christiania, Oct. 15—"No more wars was one of the chief slogans voiced by the women of the world, (excluding German, who declined to attend) at the International Council of Women, which recently held its first meeting here since the outbreak of the war. There were about 600 delegates, representing 29 countries, from all parts of the world.

The President of the Norwegian Women's League, Mrs. Hombro, in her speech of welcome said: "Every serious human being must say within his heart: Never must such a war be repeated. Such madness must never break out again." Another Norwegian woman, Miss Kjelsberg, addressed the meeting in German; her appeal was "Women! to the forefront of social work."

Lady Aberdeen (England) President of the International Council, said: "The whole world wants Mothers. It is our mission to be the Mothers of the earth. We are pioneers of the League of Nations. Peace and arbitration are our programme."

The Finnish M. P., Mrs. Hallsten, promised that the League would do whatever it could to facilitate Germany's admission to the League of Nations.

## WOULD TAX BALD MEN

(By H. W. Francis. Staff correspondent C. A. N. S.)

Paris, Oct. 29—By Mail—Bald Parisians will pay more for a shave than those who have hair if a proposal made to the barbers' convention here is adopted. "Bald clients are a dead loss" complained the barber who proposed the change. "Shaving is unprofitable without hair-cutting and the hairless client should pay more to be shaved because he gives the barber no chance to profit."

Perhaps it would be as well to mention that Guy Fawkes was no the founder of Fox films.

Next to saying the right thing at the right time comes the art of keeping one's mouth shut when there is nothing to say.

## RICH, RED BLOOD NECESSARY TO HEALTH

When the Blood Becomes Weak and Watery a Tonic is Needed to Build it Anew.

Why are we being continually told that good, health-giving blood must be bright red? What has color to do with the quality? Just this—the oxygen in the air is the great supporter of all organic life. One function of the blood is to take the oxygen from the air—which it meets in the lungs and deliver it to the tissues of the body. When the blood, filled with life-sustaining oxygen, is sent out by the heart, it is bright red. When it returns impure and deprived of oxygen it is dark.

You will see, therefore that there are two prime requisites of health, pure air and bright red blood—the pure air to furnish the oxygen, the rich red blood to carry it where it is needed. Dr. Williams Pink Pills make your blood rich and red because they increase its power to carry oxygen, actually making it so much more able to carry increased life and strength to every organ in the body.

Pale anaemic people whose nerves are on edge, whose cheeks are pale, and who tire out easily, should try Dr. Williams Pink Pills, and note the steady improvement that follows their use. A case in point is that of Mrs. J. P. Rolston, South River, Ont., who says: "About two years ago my system was in a badly run down condition; and I kept growing worse all the time until I could hardly do my household work. I had severe headaches and pains across my back and under my left shoulder. I did not sleep well and would feel just as tired when I got up in the morning as when I went to bed. Life seemed a burden. I had taken doctor's medicine for a long time, but it did not meet my case, at least it did not do me good. Then as a result of reading about Dr. Williams Pink Pills I decided to try them. When I had taken a couple of boxes I felt much better, and when I had taken five boxes more I felt that I was again a well woman. I have not since felt any return of the trouble and I advise all women who are broken in health to give Dr. Williams Pink Pills a trial." These pills are sold by all medicine dealers or will be sent by mail, post-paid, at 50 cents a box of six boxes for \$2.50, by The Dr. Williams Medicine Co., Brockville, Ont.

FOR SALE—\$2,500 buys 280 acre farm, comfortable house, two barns, machinery building, six acres intervals, one mile Zealand. Owner dead. Apply 96 Carleton street, Fredericton, or phone 778.

## WASHINGTON'S

Fredericton's Oldest and most modern high class cafe.

FRESH BUCTOUCHE OYSTERS

served in any style.

See our Saturday Night window display.

Patronize our Lunch Counter.

Dinner served from 12 to 2 o'clock.

See our window display.

YORK STREET

## CANADIAN PACIFIC

## Change Time AUGUST 29.

TRAIN No. 112 leaving Fredericton at 5.35 p. m.  
TRAIN No. 111, arriving Fredericton at 5.30 p. m.

## CANCELLED.

TRAIN No. 110 will leave Fredericton at 4.55 p. m. instead of 3.45 p. m. as at present.

For other details of train charges apply to Local Agent.

N. R. DesBRISAY, Dist. Pass. Agt.

## TAXIDERMIST

WHEN YOU WANT THE BEST IN TAXIDERMY, SEND YOUR GAME AND OTHER TRAPPHIES TO

## GEO. A. DAVIS

TAXIDERMIST  
281 Queen St., FREDERICTON, N. B.  
Am. Branch, VANCEBORO, Me.

## CAPITAL BRAND

Have you tried our BUTTER yet? It is positively the best on the market. You are invited to call and see our plant at 448 King street. Visitors always welcome.

Capital Brand ICE CREAM 60 cents a quart.

FARMERS' CO-OPERATIVE DAIRY CO., LTD.  
King Street.

## APPLICATIONS

for office help trained at

## FREDERICTON BUSINESS COLLEGE

are continually coming in from all parts of New Brunswick and the State of Maine.

We want more young men and women to qualify for these positions. Write for full particulars to

W. J. OSBORNE, Principal, Fredericton, N. B.

## SECOND HAND

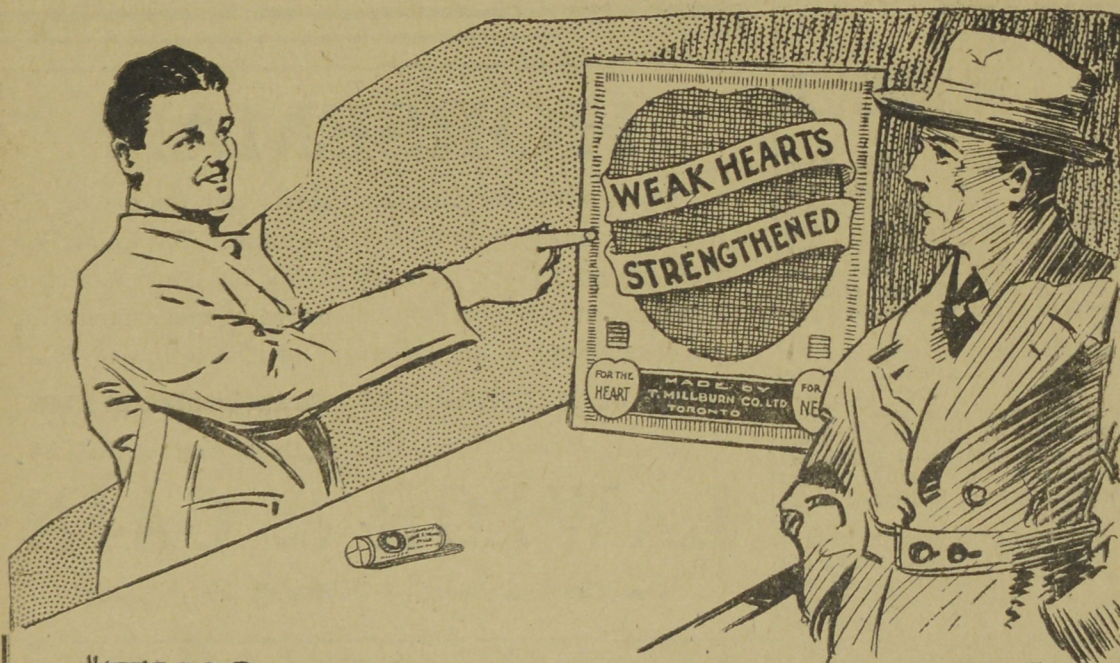
WANTED—Ladies and gentlemen's cast off clothing, boots, fur coats, gowns, furnishings stoves and all kinds of second hand goods. Goods called for. Apply or write, Uncle Sam's Exchange, 106 Regent street, Gieves Building.

TO LET—Two furnished rooms and hall, furnace heated and oil stove for cooking, electric light and bath, telephone, rent five dollars per week. Apply 618 Brunswick Street.

## NOTICE TO WATER CONSUMERS.

Your water and sewerage rates are now due and payable at the Office of the Town Treasurer. If not paid within thirty days there will be no discount.

WM. JAFFREY,  
Town Treasurer.  
Devon, Nov. 1st, 1920. 61



## "THIS is my recommendation, Sir"

"NOT so very long ago I was in the same ill health as yourself. Long and busy hours, the responsibility of filling drug prescriptions and other duties of the day's work proved a strain. I took a couple of boxes of Milburn's Heart & Nerve Pills and can honestly thank them for my present splendid condition.

This little incident from everyday life fits your case in one way or another. In these days of strenuous living it is only natural for the heart to get below normal, thus affecting the nervous system.

Many people ignore the symptoms of heart and nerve trouble. Every day people drop dead, simply because of ignoring them. You cannot afford to do this. Ask yourself, "Have I any of the following complaints?"

Dizziness, Headaches, Palpitation, Breath Shortness, Brain Fag, Loss of Flesh, Depression, Sleeplessness, Anaemia, Tobacco Heart, Loss of Appetite

These are some of the sensations which are experienced. They are a warning of vital importance. If you would be well and strong, just ask your druggist to-day for a box of Milburn's Heart & Nerve Pills.

YOU WILL BE SIMPLY ASTONISHED at the fast recovery you will make on taking them. Remember, they have been on the market for over 25 years, and you are using a preparation recommended by prominent people the country over.

All busy druggists sell Milburn's Heart & Nerve Pills at 50c. a box, or they will be mailed direct on receipt of price by The T. Milburn Co., Limited, Toronto, Ontario.