

In the Superior Court of Cass County
Spring Term A D 1870

Before his Honor A W Tounges Judge

John F Wagstaff Plaintiff
vs
Quantum

William P Belcher Defendant

The action is, to recover the stipulated
price of a quantity of Tobacco Stems sold
by the plaintiff to the defendant, in 1865

Plaintiff himself witness, that he sold
the stems in a bulk for more or less
in quantity, that the price agreed to be
given by defendant, was four dollars
and twenty five cents per hundred pounds,
that the stems were to be delivered in
good order in good hogheads, at
Berkdals Depot on the Richmond
& Danville Rail Road on or before
the first day of October 1865.
that they were ^{all} delivered ^{about} ~~on~~ ^{the} ~~1st~~ ^{12th}
of October 1865 at the Depot of said
line that on reaching the Depot with

the stems, the agent of the A. R. R. at the Depot, refused to receive them there except upon condition that he should be allowed to ship them immediately to Richmond. That the Hogshoes were marked to the care of one Wilson, Comptroller of the City of Richmond, for one Davidson ^{by the name of Davidson} that they were immediately shipped to said Wilson for said Davidson. Plaintiff in the course of his examination stated that by the terms of the contract he was to notify the defendant of the delivery of the stems at the Depot, provided the delivery was completed before the 1st of October - and that he had not given defendant any notice.

Other witnesses for the plaintiff testified to the quality & quantity of the stems and one Stallingford testified that he was the wagoner who had hauled & delivered them at the Depot, and that the agent of the Depot refused to receive them except on condition that they should be shipped immediately to Richmond as above stated.

Plaintiff, also proved by his own testimony and by the testimony of Wilkinson, that a payment of two hundred dollars had been made by the defendant, through his father, in November 1865, in part satisfaction of the price of the stems

After the examination of the witness
McKesson in chief - the plaintiff
by leave of the Court recalled him &
inquired how he had been instructed
to mark & direct certain stems, which
he had sold the defendant at the same
time of the purchase from the plaintiff
The question was not objected to by
the defendant's Counsel & witness stated
that he had marked & directed them
to Wilson Crosspiece Merchant of
Richmond for Davidson by instruction
of the defendant. In answer to a question
asked by the plaintiff after reading the testimony

Defendant alleged that the stems
have not been delivered according to contract
and he testified that he purchased the stems
to be delivered at Barker's doles in good order
and in good packages on or before the 1st
of October them & there to be received by him
and them & them to be paid for.

On the cross Examination of the defendant
the plaintiff's Counsel submitted to his inspection
a letter written by himself to the plaintiff
in 1866. in which letter the defendant
admitted that he had settled with David
son for the stems in controversy that in

that settlement with Davidson, the defendant
has been compelled to submit to reduction
of price of the stems - and in said letter
the defendant then offered to pay the plaintiff
for the stems according to the amount he
had received from Davidson - Before
this letter was produced on the trial, the
defendant had stated in his examination
that he had bought the stems to sell
to Davidson & he was asked if he had
never settled with Davidson for the
stems - he replied that he had not.

In the argument Plaintiff's counsel
instated & asked the Court to charge the
jury that the plaintiff was entitled to
recover - whether the plaintiff had strictly
complied with his contract in regard
to the delivery of the stems or not - provided
the jury were satisfied from ~~the~~ evidence
in the case that the defendant had
made a partial payment for the stems after delivery
had settled with Davidson, for the stems - for
that if he had so recognized the delivery
to Davidson it was a bar a waiver
of any failure on the part of the plaintiff
in making delivery & giving notice thereof
as defendant contended he was bound to do
and the Court so charged the jury &
defendant's counsel excepted

All the matters of fact, in regard to the terms of the Contract, the quality of the Stems &c. were left to the jury:

The Court charged the jury, that if by the terms of the Contract the Plaintiff was bound to deliver the stems at the Depot on the first day of October: then & then to be secured & paid for by the Defendant it was the duty of the Defendant to have been present at the Depot on that day, ready to receive & pay for the Stems -

John J. Wray
 vs
 Wm. G. Rutter

This was an action tried before Judge Fuller, at Spring Term 1870 of the Superior Court of Lowell County - to recover the price of certain tobacco - stems as set forth in the pleadings -

The submitted facts as to the contract of sale, were as follows -

I - The Plaintiff sold to the Defendant a certain amount of tobacco stems in bulk at a stipulated price per cwt -

II - He was to deliver the stems properly packed, in good condition, in heavy hogheads - at Barkshole's Depot on the Richmond & Danville R. R. on or before the 1st day of October 1870 -

III - The Defendant was to pay for them upon that day and at that place -

The Defendant admitted that it was further agreed that he should be notified of the day of ~~the~~ delivery - and be notified. The witness Thurston who was present - when the contract was made also stated that the Defendant was to be notified either by mail or through his (Thurston's) family -

The Plaintiff testified that he was to inform the Defendant of the time of delivery in case he should see need in ~~the~~ packing and haul -

the letters to the DeForest any one
 will see the time before Dec. 1st -
 That the DeForest letter was answered
 that he should deliver them as soon
 as possible, but that the possible
 day of delivery was dependent upon a
 great measure upon the weather.
 That he felt confident that he would
 do it by Dec 1st but would not
 engage to do it sooner -

It was also alleged by the
 DeForest, and he so testified, that
 the letters were to be weighed and
 inspected when delivered to him
 at Barboodes. On this also he was
 supported by the witness Thurston -
 That was denied by the Plaintiff,
 both in pleading and in test-
 mony - It was further shown
 in evidence by the Plaintiff, by
 several witnesses that Barboodes
 did's was not a market town
 and there was no public
 inspection of letters or packages
 held there -

The Plaintiff and the witnesses
 connected with DeForest testified
 that the letters were in good condi-
 tion when packed - that they did
 not break, and were not injured
 led to being thrown into confusion.

The Plaintiff admitted that this was
 somewhat larger than he showed
 that they should be - and the Plain-
 tiff also stated that he did not see
 May, 1852. But that, at a later
 time and place, that they were

As to what in 'Peckling' was
intended to explain the 'Peckling' and
'Peckling' under the 'Law & Law
Act'.

The Plaintiff claimed that he found
all relevant the laws for 'Peckling'
the laws at the 'Peckling' on the
before the 'Peckling' 1865 - and
in this he was considered by the
testimony of 'Peckling' and 'Peckling'
Peckling - He also claimed that
he never told 'Peckling' that he
did not find 'Peckling' them in -
the 'Peckling' that date -

The Plaintiff stated and was considered
by 'Peckling' and 'Peckling',
that the 'Peckling' of 'Peckling'
as having as the nature of the
articles and is 'Peckling' words
Peckling -

The Plaintiff and
testified that the 'Peckling' when he
was to the 'Peckling' were marked
according to the 'Peckling's'
directions given at the time of
the making of the 'Peckling'. This
was denied by the Defendant in
testimony and stated that he
was an direction to 'Peckling' as
to 'Peckling' or 'Peckling'. He also
was 'Peckling' who was 'Peckling'
has been present at the time
of making the 'Peckling', in this
'Peckling' and the 'Peckling',
saying that he heard no 'Peckling' given
before these points - He was also shown

He has now changed the law -

1st That if they believe the contract to have been as stated by the Plaintiff and that the Stems were delivered in good condition and according to the terms agreed on, the Plaintiff is entitled to recover -

2 - That they believed the contract to have been as stated by the defendant at the time and the delivery was completed a sufficient time before the 1st of October to enable the Plaintiff to notify the 2^d of that fact by the usual means of communication before that date, and failed to do so, in that case he is not entitled to recover -

3 - That if the Plaintiff's case is believed on or before the 1st of October, and that both sides to be pleased on that day will receive the goods - and pay for the same, and the Plaintiff provided the delivery of the goods on that day or so recently before that time as to prevent his notifying the defendant - and, by the ordinary means of communication, previous to that day, then the Plaintiff is entitled to recover although the contract was that he should notify the Defendant of the delivery of the goods, the stems were delivered a sufficient time before Oct. 1st to allow the Plaintiff to notify the defendant by the ordinary means, before that time, and he is entitled to recover -

That the witness Wilkerson was a-
 bout the same time delivery items
 at the same Dept of for this depend-
 ent; and that they were all in the
 same warehouse, and when over
 examined, there was no means of
 distinguishing them the way that
 you the other - Wilkerson was recalled
 and asked how the items sold by him
 were marked and how the same to
 be so marked - witness stated that the
 were ~~the same~~ marked to S, S, S. They
 were by order of the defendant.
 The defendant advised asked Wilkerson
 how one question, are you sure that
 or something similar, and that he could
 another witness - without examining the
 writings, however, - the Commercial and
 and related to the testimony of the
 witness Wilkerson, as to the exam-
 ination in which the items brought
 of him, were marked - and
 looked that it be recalled - The
 Court decided to exclude the tes-
 timony thereof without objection - and
 the Defendant accepted -

Caswell County,
Spring Term, 1870.

Superior Court--Seventh Judicial District, N. C.

ALBION W. TOURGEE, Judge.

John F. Wastaff,
Plaintiff.

v. s.

William G. Bethel,
Defendant.

This was an action tried before Tourgee, Judge, at Spring Term 1870, of the Superior Court of Caswell County -- to recover the price of certain tobacco-stems, as set forth in the pleadings --

The submitted facts as to the contract of sale, were as follows: --

1st The Plaintiff sold to the Defendant a certain amount of tobacco stems in bulk, at a stipulated price per cwt.

2nd He was to deliver the stems properly packed, in good condition, in heavy hogsheads, at Barksdale's depot on the Richmond & Danville R. R. on or before the 1st day of October 1865 --

3rd The Defendant was to pay for them upon that day and at that place --

The Defendant claimed that it was further agreed, that he should be notified of the day of delivery, and so testified. The witness Shastou who was present when the contract was made also stated, that the Defendant was to be --

the nature of the article and its condition would permit.

The Plaintiff testified that the hoops were when taken to the depot, were marked according to the defendant's directions, given at the time of the making of the contract.

This was denied by the Defendant in testimony who stated that he gave no directions to Plaintiff as to marking or slipping.

The witness Shafter who was shown to have been present at the time of making the contract, in this corroborated the Defendant, saying that he heard no directions given upon these points. — It was also shown — that the witness Wilkerson was about the same time delivering steers at the same Depot for this Defendant, and that they were all in the same warehouse and when once mingled, there was ^{means} no of distinguishing them the one ^{lot} from the other.

The Plaintiff, and also the witnesses Winstead and Satterfield, testified that the stumps were in good condition when packed - that they did not break, and were not sprinkled to bring them into condition.

The Plaintiff admitted, that they were somewhat dryer than he desired, that they should be - and the Plaintiff also stated, that he did not tell Maj. William D. Bethel, at a stated time and place that they were so dry as to break in packing. Winstead supervised the packing, and Satterfield hauled the stumps to Burkedale's.

The Plaintiff claimed that he finished delivering the stumps per contract, at the depot aforesaid on or before the first of October 1865, and in this he was corroborated by the testimony of Winstead and Satterfield. He also denied that he ever told William D. Bethel that he did not finish delivering them until after that date.

The Plaintiff stated, and was corroborated by Winstead and Satterfield that the hogheads of stumps, were as heavy as

notified, either by mail or through his (Shastou's) family -

The Plaintiff testified that he was to inform the Defendant of the time of delivery in case he should succeed in packing and hauling the stems to the Depot any considerable time before October 1st

That the Defendant was anxious that he should deliver them as soon as possible, but that the possibility of delivery was dependent in a great measure upon the weather,

That he felt confident that he could do it by October 1st but would not engage to do it sooner.

It was also alleged by the Defendant, and he so testified, that the stems were to be weighed, and inspected, when delivered to him at Burkdale's. In this also he was supported by the witness Shastou. This was denied by the Plaintiff, both in pleading and in his testimony. - It was further shown in evidence by the Plaintiff, by several witnesses, that Burkdale's was not a market town, and there was no public inspection of stems or tobacco held there,