

MONTHLY LAW DIGEST

AND REPORTER.

VOL. I.

MARCH, 1892.

No. 3.

ACCEPTANCE—See Sale of Goods 2.

ACCIDENT INSURANCE—See Insurance.

ACTION FOR ACCOUNT—See Parties Action.

ACTION ON NOTE—See Banks and Banking 4.

ACTION ON POLICY—See Insurance 6.

ACTION TO SET ASIDE DEED—See Insolvency 2.

ACTION TO SET ASIDE SECURITY—See Insolvency 3.

ACTIONS FOR STOCK—See Corporations 2.

ADJOURNMENT WITHOUT PAY.

CONVICTION ON A SUBSEQUENT DAY AD.

The justice adjourned the trial without day, stating in the presence of all parties that he would make up his judgment and notify the parties affected, which he did in time for an appeal from the conviction.

Held, that no conviction could be made, the justice having lost jurisdiction by the adjournment without day. *Queen v. Morse*, 22 N. S. Repts., 98.

ADULTERATION.

GUILTY INTENT—SALE OF FOOD AND DRUGS ACT, 1875 (38 & 39 VIC., c. 63, s. 9.)

By sec. 9 of the Sale of Food and Drugs Act, 1875, "No person shall, with the intent that the same may

be sold in its altered state without notice, abstract from an article of food any part of it, so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding twenty pounds."

Held, that the words "so altered" refer to a physical alteration of the article, irrespective of the intent with which the alteration is made.—The respondent, a retail milk seller, poured into a pail eight barn gallons of unskimmed milk, which she sold therefrom in small quantities to her customers, dipping it out of the pail from time to time with a measure. The sale of the contents of the pail extended over a space of between four and five hours, during the whole of which time, owing to the neglect of the respondent to keep the milk stirred, the cream was continually rising to the surface. When not more than two quarts of milk remained in the pail, the appellant purchased of the respondent a pint of milk, which was served to him from the pail, and which, upon analysis, shewed a deficiency of 33 per cent. of fatty matter. The respondent did not disclose the deficiency to the appellant. The deficiency was entirely due to the manner in which the earlier customers had been served.

Held, that the respondent, in so selling the milk to the appellant without disclosing its condition, was guilty of an offence against the above section. *Pain v. Boughtwood*, (24 Q. B. D., 353) followed. *Dyke v. Gower* [1892] 1, Q. B., 220.