

## ARTICLE. 5.

*What constitutes Actual Receipt.*

A buyer is said actually to receive goods from the seller—

(a) When the seller or his agent actually delivers the goods to the buyer or his agent, or authorises the buyer or his agent to assume the control of the goods, wherever they may be.<sup>1</sup>

(b) When the seller continues to hold the goods after the sale, agreeing with the buyer to hold them as a bailment from the buyer<sup>2</sup>.

(c) When, the goods being at the time of the sale in the possession of any person as agent or bailee for the seller, it is agreed between the buyer and the seller and such agent or bailee that such agent or bailee shall from the time of the agreement hold the goods for the buyer and not for the seller<sup>3</sup>.

(d) If at the time of the sale the buyer himself holds the goods as agent or bailee for the seller, an agreement that the buyer shall from the time of such agreement hold the goods as owner may be inferred as a fact from any dealings by the buyer with the goods inconsistent with the continuance of his relation of agent or bailee to the seller<sup>4</sup>.

In each of the cases aforesaid, the question whether there has been an actual receipt of the goods by the buyer is a question of fact. The question whether facts have been proved from which such a receipt may be inferred is a question of law<sup>5</sup>.

If the buyer directs the seller to send the goods to the buyer by any common carrier or other person, such carrier or other person is deemed to be the agent of the buyer for the receipt of the goods.

A wrongful refusal to accept goods lawfully tendered to the buyer has not the same effect as an actual receipt of the goods.

<sup>1</sup> Benj. 154-5.

<sup>2</sup> Illustrations 1-4.

<sup>3</sup> Illustrations 5-6.

<sup>4</sup> Illustration 7. <sup>5</sup> Benj. 150 sqq.; *Bushel v. Wheeler*, 15 Q. B. 443 n.