

ion that the declaration before us sets up a good cause of action. The fact that the defendant was the manufacturer, presumably having knowledge, or opportunity for knowledge, of the contents of the cans and of the process of manufacture; that it put the goods upon the market for sale by dealers to consumers, under circumstances such that neither dealer nor consumer had opportunity for knowledge of the contents; the fact that the goods were thus manufactured and marketed under circumstances that imported a representation to intending purchasers that they were fit for food and beneficial to the human body; that in the ordinary course of business there was a probability (it being, indeed, the very purpose of the defendant) that the goods should be purchased, and used by parties purchasing, in reliance upon the representation; and that the defendant negligently prepared the food so that it was unwholesome and unfit to be eaten, and poisonous to the human body, whereby the plaintiff was injured—make a case that renders the defendant liable for the damages sustained by the plaintiff thereby."

There is given in the *Central Law Journal*, where the case is reported, a valuable note discussing the question under two heads. The first of these is as to an implied warranty by a manufacturer in the sale of injurious foods, etc. The writer deals with it as follows:—

"The decision in the principal case was decided in the Court of Errors upon a different ground from that which was considered by the Supreme Court below. Actions for negligence are for breaches of duty. Actions on contracts are for breaches of agreement. Hence, the limits of liability for negligence are not the limits of liability for breaches of contracts and actions for negligence, often accrued where actions upon contracts did not arise and vice versa.

"In the principal case, the court is careful to say that the question whether or not a liability would exist upon an implied warranty is one that they do not decide. In the court below (65 Atl. 833) the court lays down the doctrine that at common law on a