

# The Digest

OF

## ONTARIO CASE LAW.

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### ACCIDENT.

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#### I. NEW AGREEMENT.

1. *Between the Same Parties*.

**Agreement not Completed.**—A plea to an action on an agreement alleged that defendant entered into a new agreement with the plaintiff, that defendant would pay a certain sum, and secure the same by his indorsed note, and that the plaintiff accepted same upon certain terms, and alleged a tender of such note by defendant, and a refusal by plaintiff:—Held, bad, on the ground that the delivery of the note was an essential part of the consideration: that the plaintiff was not bound by the agreement until he had accepted the note; and therefore he had retracted before he became bound. *Stewart v. Hawson*, 7 C. P. 168.

**Agreement not Completed.**—A, having taken a likeness for B, agrees to take in payment \$20 in cash, and a cognovit for \$70 payable at a future date. After receipt of the \$20 and tender of the cognovit, defendant refused to deliver the picture. The plaintiff brought replevin:—Held, that the agreement