

J. L. Counsell, for the appellants.

J. H. Cooke, for the defendant, respondent.

MEREDITH, C.J.C.P., read a judgment in which he said that it was not necessary to consider what the effect of the contract sued on should be if it could be now enforced, because it was vitiated by a material alteration made in it whilst in the custody of the plaintiffs, and indeed made by them, as their seeking to enforce it in its altered form only, and the evidence generally, proved.

Whatever—if anything conclusive—otherwise could have been said in support of any liability of the defendant, personally, on the contract, nothing could be said in support of any liability apart from it. The sign was delivered to and used by an incorporated company (J. Vise & Co. Limited) only; the monthly charge for it was made against and paid by the company only; and the unpaid charges for the last four months, before the plaintiffs re-took the sign—being all of such charges remaining unpaid—were made against the company only.

No recovery could be had on the altered writing; and no other ground of action against the defendant personally existed.

The company had admitted and still admitted liability; so there was no justification for this litigation.

LENNOX, J., read a judgment to the same effect.

MAGEE and HODGINS, JJ.A., concurred.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

OCTOBER 6TH, 1916.

*DUFFIELD v. PEERS.

Master and Servant—Liability of Master for Act of Servant—Scope of Employment—Finding of Jury—Evidence.

Appeal by the defendants the Computation Scale Company from the judgment of LATCHFORD, J., upon the findings of a jury, in favour of the plaintiff, for the recovery of \$2,500 damages and costs, in an action for damages for injuries sustained by the