

# MONTHLY LAW DIGEST

## AND REPORTER.

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No. 5.

ACCEPTANCE—See Sale 4.

ACCIDENT INSURANCE — See Insur. Accident.

ACCOUNT STATED—See Corporations 7.

ACTION FOR NEGLIGENCE—See Railroad Comp. 1.

ACTIONS ON POLICIES—See Ins. 6. 11. 13. 14. 16.

ADDITIONAL INSURANCE—See Ins. 9.

### ADULTERATION.

MILK WATERED—SALE BY SERVANT—CONVICTION OF MASTER—NO EVIDENCE OF MASTER'S KNOWLEDGE OR CONNIVANCE — SALE OF FOOD AND DRUGS ACT 1875 (38 & 39 V., c. 63), ss. 6 & 25.

P., a servant of the appellant, was employed to sell milk out of cans by retail. The cans were received by the appellant, the master, on arrival from the country, and a sample taken from each can before it was sent out for sale. The appellant had published a warning to his servants that any servant whose can of milk did not correspond with the sample taken from it would be liable to instant dismissal. P.'s can was duly sampled, and the sample proved to be unadulterated. Subsequently to his taking out the can for the sale of milk, P. admitted watering the milk, some of which milk he sold to an inspector, who thereupon summoned the appellant, the master, as "a person selling to the prejudice of the purchaser an article of food not of the nature, substance and quality of the article demanded," under the

terms of section 6 of the Sale of Food and Drugs Act, 1875. The appellant was convicted by a magistrate and fined the full penalty.

*Held*, by the Court (Hawkins, J., and Wills, J.), that the appellant was rightly convicted, on the ground that he was the seller within the meaning of the Act, and was liable for his servant's action in selling adulterated milk.

*Held* further, that the fact of the sale of adulterated milk was sufficient proof of the offence without evidence of any connivance by the appellant, though evidence rebutting connivance might properly be admitted by the magistrate with a view to mitigate any penalty he might otherwise have thought fit to impose. *Brown v. Foot*, 61 L. J. Rep., M. C. 110.

AGENCY—See Express Co.

AGENT, POWERS OF— See Corp. 2—Ins. 13—Prin. and Agent 3.

### AGREEMENT.

VALIDITY — ILLEGAL CONSIDERATION — STIFLING A PROSECUTION — PRESSURE.

The respondents gave a written undertaking to the appellant society to make good part of a debt arising from the criminal default of the secretary of the society, the consideration expressed being that the society should not sue the secretary to recover that part of the debt. The society had threatened to prosecute the secretary, and, though the question of their doing so was not mentioned in the negotiations which led to the under-