

in a recent, well considered case, the principle that governs this class of actions is, "that one who deals with an article imminently dangerous owes a public duty to all to whom it may come, and whose lives may be endangered thereby, to exercise caution adequate to the peril involved." (1)

The New York case of *Thomas v. Winchester* (m) is a leading one on this subject. That was an action brought to recover damages from the defendant for negligently putting up, labelling and selling as the extra extract of dandelion, a simple and harmless medicine, a jar of the extract of belladonna, a deadly poison, by means of which the plaintiff to whom, being sick, a dose of the dandelion was prescribed by her physician, a portion of the contents of the jar was administered as the extract of dandelion, the poison resulting in great injury to the plaintiff.

The defendant, Winchester, had purchased the extract sold from another, which had been prepared and labeled by the agent of Winchester. Winchester had sold the extract to one Aspinwall, a druggist, who in turn sold it to one Foord, of whom the plaintiff's husband purchased the poisonous extract. In holding that the plaintiff could recover notwithstanding there was no privity or connection between the defendant and the plaintiff, the court, by Ruggles, C.J., said: "In the present case the sale of the poisonous article was made to a dealer in drugs, and not to a consumer. The injury, therefore, was not likely to fall on him or on his vendee, who was also a dealer; but much more likely to be visited on a remote purchaser as actually happened. The defendant's negligence put human life in imminent danger. Can it be said that there was no duty on the part of the defendant to avoid the creation of that danger by the exercise of greater caution? Or that the exercise of that caution was a duty only to his immediate vendee whose life was not endangered? The defendant's duty," continued the court, "arose out of the nature of his business and the danger to others incident to its mismanagement. Nothing but mischief like that which actually happened, could have been expected from sending the poison falsely labeled into the market; and the defendant is justly responsible for the probable consequences of the act. The duty of exercising caution in

(1) *McCaffrey v. Massburg & Granville Mfg. Co.*, 23 R.I. 381, 50 Atl. Rep. 651, 55 L.R.A. 822.

(m) *Thomas v. Winchester*, 6 N.Y. 397, 57 Am. Dec. 455.