

*Osgood*, 51 N. H. 192, 207. The account rendered contained a copy of the note and of all the indorsements thereon, with the dates of payment, and stated that the interest paid and indorsed was computed at a certain rate per cent. This was a compliance with the requirement of the statute. The question to be answered by the account was, not what the plaintiff claimed to be due, but what was due. The account correctly stated all the facts bearing on that question. At what rate the interest should be computed, was a question of law which the plaintiff was not bound to answer.

*Exception overruled.*

DOE, C. J., and ALLEN, J., did not sit: the others concurred.

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SPRAGUE v. CORNISH.

In an action against a town to recover the price of liquors sold to an agent of the town for the sale of spirituous liquor, the record required by law to be made of the rules and regulations prescribed for the observance of such agent is competent evidence upon the question of the authority of the agent to purchase liquors on the credit of the town; and a person selling liquor to such agent is charged with notice of any limitation of the agent's authority shown by such record.

ASSUMPSIT, to recover the price of liquors sold March 17, 1876, by the plaintiff, as state agent under Gen. St., c. 99, to B., as liquor agent of the town of Cornish. The plaintiff's evidence tended to show that B. was acting liquor agent of the town; that the selectmen paid to the town treasurer, February 28, 1877, \$59.14 as cash received as profits from the liquor agent, and that B. had then sold most if not all of the liquors, for the price of which this suit is brought. The defendants put in evidence the record of the appointment of B. as liquor agent of Cornish in 1871, and the record of the rules and regulations prescribed for his observance at the time of his appointment, in which he was forbidden to purchase liquors on the credit of the town. There was no record of any subsequent appointment, or of his removal from office. One of the selectmen for 1871 testified that the town furnished B. \$180 to start the business when he was appointed liquor agent in 1871; and the selectmen of 1876 and 1877 testified that they had no knowledge or suspicion that B. had bought or was buying liquors on the credit of the town. Some time after the sale of the liquors, the plaintiff took B.'s note for the price, which had not been paid. All the foregoing evidence of the defendants was received, subject to exception. The

plaintiff excepted to the instructions of the court to the jury, that if there was no appointment of liquor agent, and no instructions given subsequent to those of 1871, and no removal of B. from office, and he acted from that time continuously as liquor agent, then the appointment and instructions of 1871 were in force at the time of the sale by the plaintiff, and being recorded he was bound by them; that he could not recover of the town the price of the liquors, because the town had received the avails of them, unless the town had or was chargeable with notice that they were purchased on its credit. Verdict for the defendants.

*Parker and Wait*, for the plaintiff.

*Cushing and Colby*, for the defendants.

CLARK, J. If B. was the agent of the town in March, 1876, when the liquors were purchased of the plaintiff, it was by virtue of his appointment in 1871, and holding over without removal or other appointment being made. Gen. St., c. 99, s. 6; *Johnston v. Wilson*, 2 N. H. 202, 208. The certificate of his appointment, with the rules and regulations prescribed for his observance, were required by law to be recorded (Gen. St., c. 99, s. 12); and the record, being required by law to be made, was competent evidence upon the question of the authority of the agent to purchase liquors on the credit of the town, and notice of the extent of his authority to all persons dealing with him. By the terms of his appointment, the agent was prohibited from purchasing liquors on the credit of the town. The town could legally impose this limitation upon the agent's power, and the plaintiff is chargeable with notice that the agent had no authority to bind the town by a purchase of the liquors on credit. *Backman v. Charlestown*, 42 N. H. 125.

The plaintiff claims that the unauthorized purchase by the agent was subsequently ratified by the town by receiving the proceeds of the sale of the liquors so purchased. The evidence does not sustain this position. It appears that in February, 1877, the town received from the agent \$59.14, as profits from the sale of liquor; but it does not appear that this sum, or any portion of it, was received from the sale of the liquors purchased of the plaintiff. *West v. Errol*, 58 N. H. 233. Neither does it appear that the town had knowledge that any liquors had been purchased on credit when the \$59.14 was received from the agent; and upon this point the testimony of the selectmen was properly admitted. To render a ratification of an unauthorized act of an agent binding upon the principal, it must be made or founded upon a full knowledge of all the material facts and circumstances affecting the interests of the principal. Implied ratifications extend only to such acts of the agent as are known to the principal at the time. Story on Agency 252-260; 1 Wait Actions and Defences 233; *Thacher v. Pray*, 113 Mass. 291;

*Thorndike v. Godfrey*, 3 Greenl. 429; *Smith v. Kidd*, 68 N. Y. 130; *Busby v. Ins. Co.*, 40 Md. 572.

*Judgment on the verdict.*

ALLEN, J., did not sit: the others concurred.

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FULLER & a. v. LEET.

A sale of spirituous liquors, to be forwarded to the purchaser in this state by railroad, made by a licensed dealer in Boston, upon an order taken in this state by an agent having no authority to make sales, is a sale in Massachusetts; and a note given after the enactment of c. 33, Laws of 1876 (G. L., c. 109, s. 18), for the price of such liquors legally sold before the passage of that act, is valid.

ASSUMPSIT, to recover the amount of a promissory note dated September 29, 1877, given for liquors bought February 24, 1876. Facts agreed. The order for the liquors was taken at Claremont, N. H., by an agent of the plaintiffs', transmitted to the plaintiffs at Boston, and accepted by them. The agent was authorized to receive such orders, but was not authorized to make sales. The liquors, marked with the defendant's name and residence, were sent to the railroad station in Boston by the plaintiffs, the cartage, according to previous custom of the parties, being paid by the plaintiffs and charged in the bill to the defendant, and the plaintiffs had nothing more to do with the liquors after they were deposited at the railroad station in Boston. The plaintiffs were licensed to sell spirituous liquors in Massachusetts.

*Colby*, for the plaintiffs.

*Parker*, for the defendant.

CLARK, J. It has been held, in numerous cases, that when an order is given in this state for the purchase of spirituous liquors to be delivered in another state, the place of delivery is to be regarded as the place of sale; and if such sale is valid by the laws of the place of delivery, an action may be maintained here to recover the price of such liquors, notwithstanding the sale is prohibited by the laws of this state. *Boothby v. Plaisted*, 51 N. H. 436; *Garland v. Lane*, 43 N. H. 245; *Bancher v. Warren*, 33 N. H. 183; *Woolsey v. Bailey*, 27 N. H. 217. It has also been decided that the act of soliciting and receiving such orders in this state, for the purchase of liquors to be delivered in another state, previous to the