supplying his sub-factories with liquor is a barter or sale, within the meaning of the statutes which forbids the sale of liquor in quantities above three gallons unless sold under wholesale license. (See *Muller v. Republic,* Lib. Semi Ann. Series, No. 5, p. 20.)

A sale is defined by Bouvier to be an agreement by which one of two contracting parties, called the seller, gives a thing and passes the title in exchange for a certain price in current money to the other party, who is called the buyer or purchaser, who on his part agrees to pay such price. (Bouv. L. D., vol. 2, Sale.)

Barter differs from sale in only one respect, and that is the consideration, which is paid in goods or merchandise. The effect of a sale is to pass title to the goods sold. (See *idem.*)

Now it is plain that the transactions between a merchant and his factor do not fall under the above definition, because the factor is in law a bailee who is under contract either expressed or implied to return the goods entrusted to him, in its original or an altered form. (*Idem; Bakker v. Williams,* I Lib. L. R. 233.)

Besides it would be absurd and contrary to the public policy if by any construction of the above cited statute, merchants were limited in supplying their factories, to retail quantities of liquor, for it is the policy of the law to encourage trade and not to restrict it.

Following the above reasoning, it is evident that the mere transportation of goods and merchandise from one factory to another is not a sale or barter within the meaning of said statutes.

The judgment of the court below should therefore be reversed, and it is so ordered.

C. B. Dunbar, for appellant.

Attorney General, for appellee.

A. WOERMANN, Appellant, *v.* H. K. FREEMAN, Appellee.

ARGUED NOVEMBER 3, 1915. DECIDED JANUARY 10, 1916.

Dossen, C. J., and Johnson, J.

Mr. Justice Johnson delivered the opinion of the court:

Debt—Appeal from Judgment. This is an action of debt brought up from the Circuit Court of the first judicial circuit, Territory of Grand Cape Mount, by the plaintiff in the court below now appellant, against whom judgment was entered.

The records exhibit the following state of facts. On the first day of November, A. D. 1913, an agreement was made between said parties, by which appellee contracted to serve appellant as a contractor in consideration of which service appellant contracted, *inter alia,* to pay appellee a commission of ten per cent on the goods supplied to the factories, and also to pay to him two and a quarter cents per lb. for piasava, it being understood that not more than ten per cent sticks was to be allowed in the piasava. In the month of June, 1914, there was a deficit in appellant's account, of about seven hundred dollars. A new contract was made, between the parties by which the sum to be paid for piasava was increased to two and a half per cent, and the amount of sticks to be allowed in the piasava increased to fifteen per cent.

The amount claimed by appellant in the account filed with the complaint was for the sum of $773.08.

The appellee, defendant in the court below, denied the indebtedness, and set up in his answer a counter claim or setoff averring in his said answer, that appellant had neglected to credit him with the full weight and value for his piasava, and that the account filed by him, the said appellee, would show that appellant was indebted to him in the sum of $780.24.

The case having been submitted to a jury, a verdict was returned, awarding appellee, the sum of $832.50. Judgment was accordingly entered thereupon to which judgment appellant excepted, and has brought the case before us for review and determination.

At the hearing of the case before this court, counsel for both parties admitted that there were errors and discrepancies in the accounts of their respective clients, and at their suggestion, said accounts were referred to them for adjustment, by the court.

On the twenty-fourth day of November, A. D. 1915, the following stipulations with respect to said accounts were filed by said counsel to wit:

> "Counsel for appellant and appellee in the above entitled cause having carefully gone over the *accounts* and *the agreement* in said case, find the following errors in the accounts filed, which in these stipulations they submit for the consideration of Your Honors.
>
> 1. That appellee was under-credited 10 per cent of the piasava which he shipped appellant equal to 19,580 lbs. at two and a quarter cents per lb. $440.55.

2. That in addition there should be added to the credits of appellee 5 per cent commission on the piasava bought, and turned over to appellant and 3 per cent cash expenses as per the terms of the agreement equal to $22.02 and $13.20 respectively; equal to thirty-five dollars and twenty-two cents. $35.22

3. And that there should be placed to the credit of appellee an amount of seventy-six dollars and fifty-one cents over debited said appellee in his accounts. $76.51

Five hundred and fifty-two, twenty-eight cents. $552.28

Said amounts deducted from seven hundred and seventy-three dollars and eight cents, the amount sued for, would leave two hundred and twenty dollars and eighty cents ($220.80) which, according to the account, is due appellant by appellee.

Respectfully submitted,

(Sgd.) Chas. B. Dunbar,
Counsellor-at-Law, for appellant.
(Sgd.) L. A. Grimes,
Counsellor-at-Law, for appellee."

As by filing the said stipulations counsel for both parties waived the legal points raised in their respective pleadings, it is only left for us to pronounce judgment upon the admitted facts.

In our opinion the judgment of the court below should be reversed, and the appellant recover from the appellee the sum of two hundred and twenty dollars and eighty cents, and it is so ordered.

C. B. Dunbar, for appellant.

L. A. Grimes, for appellee.