

## RECENT ENGLISH DECISIONS.

## TRESPASS—HIGHWAY—NEGLIGENCE—ONUS.

The first case requiring notice here is *Tillett v. Ward*, p. 17. In this case the plaintiff sued the defendant for damages, for that the defendant's ox, which was being driven by the defendant's servants through the streets of a country town, entered the plaintiff's shop which adjoined the street, through an open doorway, and damaged his goods, and the law governing the subject is thus stated by Stephen, J.:—"As I understand the law, when a man has placed his cattle in a field, it is his duty to keep them from trespassing on the land of his neighbours; but while he is driving them upon a highway, he is not responsible, without proof of negligence on his part, for any injury they may do upon the highway, for they cannot then be said to be trespassing. The case of *Goodwyn v. Chereley*, 28 L. J. (Ex.) 298, seems to me to establish a further exception, that the owner of the cattle is not responsible, without negligence, when the injury is done to property adjoining the highway, an exception which is absolutely necessary for the conduct of the common affairs of life. In this case no negligence on the part of the drivers of the ox was shown, and the Divisional Court gave judgment for the defendant.

## BILL OF EXCHANGE—MARGINAL FIGURES.

Passing by a bankruptcy case, the next one requiring notice is *Garrard v. Lewis*, p. 30, in which the question of the exact import and effect of marginal figures at the head of a bill of exchange, came before Bowen, L.J. The bill of exchange in question had been drawn by one Bees, four months after date, on the defendant; at the time when the defendant appended his signature to the document the sum to be mentioned in the body of the bill was left in blank, but in the margin of the bill were the figures £14 os. 6d., which was the sum for which the defendant desired to accept. Bees subsequently filled in the blank in the body of the bill for £164 os. 6d., and fraudulently altered the figures in the margin to that sum. Having done so, he indorsed

the bill to the plaintiffs, who took it as *bona fide* holders for value for the larger amount. The plaintiff now sued the acceptor on the bill for £164 os. 6d. The defendant pleaded that the bill after issue was altered in a material part. Bowen, L.J., in his judgment reviews the history of marginal figures in bills of exchange, and comes to the following conclusion:—"I arrive at the conclusion that a man who gives his acceptance in blank holds out the person to whom it is entrusted as clothed with ostensible authority to fill in the bill as he pleases within the limits of the stamp, and that no alteration, even if it be fraudulent and unauthorized, of the marginal figure, vitiates the bill as a bill for the full amount inserted in the body, when the bill reaches the hands of a holder who is unaware that the marginal index has been improperly altered."

## PRACTICE—PRODUCTION OF DOCUMENTS.

In the next case, *Kearsley v. Phillips*, p. 36, the action was for the seizure of the goods of the plaintiff on certain premises, and was brought against two defendants P. and D. The defendants were mortgagees, and justified under an alleged right of distress on the premises, and the plaintiff now sought to render them liable for such seizure. It appeared that since the distress, D. ceased to be a trustee, and thereupon B. was appointed a trustee in his place, and the mortgage was transferred from P. and D. to P. and B. In his affidavit of documents, the defendant P. stated that he and B. jointly had in their possession or power certain documents specified in a schedule to such affidavit, and that they were the muniments of title of himself and B. to the premises as mortgagees thereof, and that he, P., objected to produce. On appeal, the Divisional Court, after reviewing numerous cases, now held that such affidavit showed sufficient reason for not making an order for inspection of the documents, citing as decisive, *Murray v. Walters*, Cr. and Ph. 114. Stephens, J., puts the matter thus:—