

article, and yet would be liable only to nominal damages for any other description of injury. It seems to me the rule in *Hadley Baxendale* never was intended to lead to any such practical absurdity and injustice, and that according to that rule the true measure of damages in a case like the present is the difference in the exchangeable value of the article."

I have made these long extracts from the judgments delivered in the case by the several Judges, with the view of presenting the reasoning on which the principle is said to have been established, that the fall in the market value of the article to be carried between the day or time it should have been delivered and the time of actual delivery, is at all events one of the elements of the measure of damages. This is not a case where, as put by Lord Justice Mellish, *the season has been lost*.

In *Smeed v. Ford*, 1 E. & E. 602, it was held damages for loss of market were not recoverable where the defendant failed in his contract to deliver to the plaintiff, a farmer, a threshing machine within three weeks, he having knowledge that the plaintiff threshed his wheat in the field, and sent it thence direct to market. At the end of the three weeks the wheat was ready in the field for threshing, but the machine had not been delivered. The plaintiff remonstrated with the defendant at his delay, and the defendant assured him it (the machine) should be sent forthwith. The plaintiff having tried unsuccessfully to hire another machine, was obliged to carry home and stack the wheat, which, while so stacked, was damaged by the rain. The machine was afterwards delivered, and the plaintiff paid to the defendant the price.

The wheat was then threshed, and it was found necessary, owing to its deterioration by rain, to kiln dry it. When dried and sent to market it sold for a less price than it would have brought had it been threshed at the time fixed by the contract for the delivery of the machine and then sold, the market price of wheat having meanwhile fallen. The plaintiff's contention was, that he was entitled, among other